

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, et al., Chapter 11
Jointly Administered
Debtors.

-----x
RESIDENTIAL CAPITAL, LLC, et al.,
Plaintiffs, Adv. Case No.
V. 13-01343 (MG)

UMB BANK, N.A., IN ITS CAPACITY AS
INDENTURE TRUSTEE FOR THE 9.625%
JUNIOR SECURED GUARANTEED
NOTES, et al.,

Defendants.

-----x
OFFICIAL COMMITTEE OF UNSECURED
CREDITORS, on behalf of the estate
of the Debtors,
Plaintiff, Adv. Case No.
v. 13-01277 (MG)

UMB BANK, N.A., AS SUCCESSOR
INDENTURE TRUSTEE UNDER THAT
CERTAIN INDENTURE, dated as of
June 6, 2008, et al.,

Defendants.

-----x
VOLUME II
CONTINUED DEPOSITION OF REID SNELLENBARGER
November 8, 2013

Reported by:
ERICA L. RUGGIERI, RPR, CSR, CLR
JOB NO: 32435

Yellow Highlighting = JSN Designation
Pink Highlighting = Plaintiff's Designation
Orange Highlighting = Joint Designation Light
Blue = Wells Fargo Designation
Dark Blue = Wells Fargo Designation overlaps
with Plaintiff's Designation

November 8, 2013

9:46 a.m.

Continued deposition of REID

SNELLENBARGER, held at the offices of
Curtis, Mallet-Prevost, Colt & Mosle, LLP,
101 Park Avenue, New York, New York,
pursuant to Notice, before Erica Lynn
Ruggieri, RPR, CSR, CLR and Notary Public
within and for the State of New York.

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND
AGREED, by and between counsel for the
respective parties hereto, that the
filing, sealing and certification of
the within deposition shall be and the
same are hereby waived;

IT IS FURTHER STIPULATED AND
AGREED that all objections, except as
to the form of the question, shall be
reserved to the time of the trial;

IT IS FURTHER STIPULATED AND
AGREED that the within deposition may
be signed before any Notary Public
with the same force and effect as if
signed and sworn to before the Court.

1 SNELLENBARGER

2 R E I D S N E L L E N B A R G E R,
3 called as a witness, having been
4 previously duly sworn by a Notary
5 Public, was examined and testified as
6 follows:

7 (AHG Exhibit 8, Notice of
8 Deposition, marked for identification,
9 as of this date.)

10 EXAMINATION BY

11 MR. WALSH:

12 Q. Good morning, Mr. Snellenbarger.
13 I'm John Walsh. I'll be taking your
14 deposition today. I have discussed with
15 your counsel certain limitations on your
16 testimony today. I have marked, as AHG
17 Exhibit 8, the Notice of Deposition and I
18 just quickly want to review for the record
19 the limitations that your counsel and I
20 have agreed upon.

21 With respect to topic 1.

22 Mr. Snellenbarger will "identify the
23 intercompany balances on which the ad hoc
24 group claims the noteholders possess a
25 lien based upon a review of the debtors'

1 SNELLENBARGER

2 schedules and other relevant documents."

3 With respect to topics 2 and 4
4 through 11. "The debtors are not seeking
5 expert testimony from Mr. Snellenbarger
6 about the value of the intercompany
7 balances and are only seeking testimony as
8 to how, if at all, the ad hoc group valued
9 the intercompany balances prior to the
10 termination of the prepetition PSA
11 (September 25th, 2012)."

12 There will be no limitations on
13 topics 3, 24 to 28 and 30 to 32.

14 With respect to topics 12, 16,
15 17, 20, 29, 33 and 38 Mr. Snellenbarger's
16 testimony will be limited to "Houlihan's
17 communications with the debtors and any
18 significant meetings between the debtors
19 or their representatives and the ad hoc
20 group or its representatives."

21 With respect to topics 13
22 through 15 and 18 and 19, we are not
23 seeking, "the debtors are not seeking
24 expert testimony from Mr. Snellenbarger
25 and are seeking testimony as to the fact

1 SNELLENBARGER

2 of what, if any, analysis was done by the
3 ad hoc group with respect to each topic."

4 Topics 36 and 41 through 44 with
5 the understanding that Mr. Snellenbarger
6 "will testify about the expected
7 recoveries by reference to the plain
8 language of the plan and will testify as
9 to the fact of whether or not the ad hoc
10 group conducted an analysis of its
11 expected recoveries under the plan."

12 With respect to topic 37,
13 Mr. Snellenbarger will testify about "the
14 business reasons for objecting to the
15 plan."

16 With respect to topic 39, "with
17 the understanding that the ad hoc group
18 has not objected to the amount of the Ally
19 contribution and that Mr. Snellenbarger
20 will testify to that effect."

21 With respect to topic 40 "with
22 the clarification that this topic seeks
23 testimony about the ad hoc group's
24 objection to the releases provided to Ally
25 under the plan in exchange for the Ally

1 SNELLENBARGER

2 contribution."

3 And finally, with respect to
4 topic 45, "with the clarification that we
5 are seeking testimony from Mr.
6 Snellenbarger about nonprivileged
7 communications between Aurelius and the ad
8 hoc group or its representatives,
9 concerning the debtors that predate
10 Aurelius's joining the ad hoc group."

11 MR. RENENGER: And if I could
12 just clarify a few things for the
13 record. Number one, the deposition
14 notice that was recirculated two days
15 ago also included topics 21 to 23, 34
16 and 35, which Mr. Snellenbarger is not
17 testifying about. In fact, those have
18 already been covered by Mr. Bastable
19 last week.

20 Further, with respect to topics
21 18 to 19, the testimony would be
22 limited to phase two issues with
23 respect to those topics and not phase
24 one issues with respect to those
25 topics. And generally speaking, for

1 SNELLENBARGER

2 all topics, Mr. Snellenbarger is here
3 as a fact witness, neither an expert
4 witness nor a witness who is in a
5 position to speak to legal issues. So
6 on topic 40, for example, we would
7 further limit that topic or request
8 limitation of that topic to purely
9 fact issues and not legal issues and
10 we will make that objection when and
11 if the questions are asked that would
12 go beyond what we believe are the fact
13 issues.

14 And then finally, on topic 45,
15 the further clarification that I
16 believe we have agreed to Mr. Walsh is
17 that that would be limited to
18 communications between Houlihan and
19 Aurelius or significant meetings
20 involving ad hoc group professionals
21 and Aurelius prior to Aurelius
22 becoming a member of the ad hoc group.

23 Q. Did you follow all that?

24 A. Got it.

25 Q. Mr. Snellenbarger, you

1

SNELLENBARGER

2

understand that you are still under oath?

3

A. I do.

4

Q. What did you do to prepare for

5

today's deposition?

6

A. I met with Milbank and with one

7

of my Houlihan colleagues to discuss the

8

topics here.

9

Q. Who is that?

10

A. Who is my colleague? Jeffrey

11

Lewis.

12

Q. Who from Milbank did you meet

13

with?

14

A. Aaron and Jerry Uzzi.

15

Q. And when was that?

16

A. Yesterday.

17

Q. For how long?

18

A. 4 or 5 hours.

19

Q. Was anyone else present, either

20

personally or telephonically?

21

A. One of my other colleagues

22

briefly, Ben Ilhardt, in person.

23

Q. Anyone else?

24

A. No.

25

Q. Did you have any other meetings

1 SNELLENBARGER

2 with counsel to prepare for today's
3 deposition?

4 A. No.

5 Q. Any other phone calls with
6 counsel?

7 A. No.

8 Q. When did you first learn that
9 you would be the witness for this
10 deposition?

11 A. Couple weeks ago maybe.

12 Q. How did you learn?

13 A. I'm sorry?

14 Q. How did you learn of that fact?

15 A. Via e-mail from Aaron.

16 Q. And did you review any documents
17 at that time or up through today to
18 prepare to testify today?

19 A. Yes.

20 Q. What documents?

21 A. Just a few, like the plan
22 objection, disclosure statement, variety
23 of e-mails.

24 Q. What e-mails?

25 A. Certain e-mails related to

1 SNELLENBARGER

2 correspondence between myself and the ad
3 hoc group or Houlihan and the ad hoc
4 group.

5 Q. Do you know if those e-mails
6 were provided to counsel for production to
7 the parties in this case?

8 A. I believe they were, yes.

9 Q. How far back did the e-mails go
10 back in time?

11 A. I believe back through, I'm not
12 sure -- we adhered to the protocol as
13 agreed to. I believe it was back through
14 even prepetition, the spring of 2012, I
15 believe.

16 Q. Do you know if it went back to
17 2011?

18 A. I don't recall. It may have. I
19 mean, I do know that whatever protocol was
20 agreed to, we adhered to that so.

21 Q. Do you know who at Houlihan
22 assisted counsel in the collection of
23 documents?

24 A. Under my direction Jeffrey Lewis
25 with Houlihan's internal counsel.

1 SNELLENBARGER

2 Q. Did you have any discussions
3 outside of the presence of counsel with
4 anyone to prepare for today's deposition?

5 A. No.

6 Q. Did you have any meetings with
7 other counsel besides Milbank to prepare
8 for today's deposition?

9 A. No.

10 Q. Do you know if you are going to
11 be a witness at the trial or plan
12 confirmation in phase two?

13 A. I'm not aware of that.

14 Q. Do you know if anyone from
15 Houlihan is going to be a witness at that
16 trial?

17 A. I believe we have an expert
18 there, Michael Fazio.

19 Q. Anyone else?

20 A. I don't believe so.

21 Q. When did you first start working
22 at Houlihan?

23 A. Spring of 2005.

24 Q. And do you have a particular
25 expertise in your practice?

1

SNELLENBARGER

2

A. I'm a managing director in the

3

financial restructuring group. I have

4

been doing, involved in advising companies

5

and creditors in restructuring stress

6

situations for close to 16 years.

7

Q. Is there a particular industry

8

that you provide expertise in?

9

A. We are fairly industry agnostic.

10

I tended to do a variety of different

11

industries, real estate is one of them

12

that I focus on. But I have done a

13

variety of different industries.

14

Q. How much experience do you have

15

anyone the real estate industry?

16

A. A fair -- decent amount. I have

17

done several distressed and healthy deals

18

in the real estate space over my career.

19

Q. Have you worked for companies

20

that do securitizations of real estate

21

investments?

22

A. Before ResCap not that I recall.

23

Q. Had you done any work for ResCap

24

prior to this case?

25

A. ResCap specifically, no.

1 SNELLENBARGER

2 Q. Had you done work for Ally?

3 MR. RENENGER: Object to the
4 form of the question.

5 A. Yes.

6 Q. When?

7 A. Several years ago. We helped
8 them examine, they had a time share
9 portfolio they wanted us to examine
10 alternatives for, which we helped with.

11 Q. Do you know if that work in any
12 way informed the work that you've done in
13 this case?

14 A. No, it did not.

15 Q. Do you know if anyone from
16 Houlihan, besides yourself, has done work
17 for either Ally or ResCap?

18 A. Yes.

19 Q. Do you know who that is?

20 A. Matt Niemann, Andrew Turnbull.

21 Q. What work did they do?

22 A. Well, I guess let me back up.
23 Matt Niemann actually worked for ResCap
24 several years ago as an employee after he
25 left Houlihan. And then the Houlihan

1

SNELLENBARGER

2

engagement, Andrew Turnbull was my partner

3

on the engagement.

4

Q. Where is Mr. Niemann working

5

now?

6

A. At Houlihan.

7

Q. So he was at Houlihan, went to

8

ResCap and then back to Houlihan?

9

A. Well, he actually left Houlihan

10

to work for Cerberus. Cerberus is an

11

investor/owner of ResCap. So he was, in

12

his capacity as a service employee worked

13

at ResCap, as I understand.

14

Q. For how long?

15

A. I believe a couple years.

16

Q. And do you recall which years?

17

A. Maybe '06 to '08. 2006 to 2008.

18

Q. Do you recall when your

19

involvement in this engagement generally

20

first began?

21

A. Yes.

22

Q. When was that?

23

A. The engagement -- we had been

24

tracking ResCap as a name, as a potential

25

client for some time. We actually

1

SNELLENBARGER

2

interviewed for the position of advisor to

3

the company in late 2011. We were not

4

selected as the company's investment

5

banker and so we began discussions, on a

6

public basis, with noteholders that were

7

invested in the junior secured bonds.

8

Q. Did you meet with management at

9

ResCap to pitch work?

10

A. We did.

11

Q. Do you recall who you met with?

12

A. Tom Marano, and I just don't

13

recall the other -- there were other

14

senior management people there, I just

15

don't recall who else was there.

16

Q. You said late 2011. Do you

17

recall which month?

18

A. I think it was November.

19

Q. Where did you meet?

20

A. At ResCap's offices here in New

21

York.

22

Q. Do you recall how long you met

23

with them?

24

A. An hour or two.

25

Q. Did you put together a pitch

1

SNELLENBARGER

2

book for that meeting?

3

A. We did.

4

Q. And what information was in the

5

pitch book?

6

A. Just public information. ResCap

7

had filed publicly financial statements

8

and there was articles out on ResCap, et

9

cetera. So we had just assembled an

10

analysis -- or I wouldn't say analysis,

11

just a presentation based on the public

12

information.

13

Q. How long prior to that meeting

14

had you been tracking ResCap as a

15

potential client?

16

A. I would say 3 or 4 months.

17

Q. What led you to begin tracking

18

ResCap as a potential client?

19

A. There was various reports of

20

ResCap's financial distress, some of their

21

bonds were trading very low. And we, just

22

on a public basis, knew that they had

23

significant maturities coming up that had

24

to be dealt with, and so they might, we

25

thought they might need assistance in

1

SNELLENBARGER

2

dealing with those issues.

3

Q. What public information did you

4

review in connection with the pitch that

5

you gave?

6

A. There was I think SEC filed

7

public financials that were available that

8

we reviewed.

9

Q. Were there analyst reports that

10

you reviewed?

11

A. Yeah, I believe so. There were

12

analyst reports and also articles and

13

things like that that were publicly

14

available.

15

Q. Did Mr. Niemann participate in

16

the pitch?

17

A. He did.

18

Q. Mr. Niemann was generally

19

familiar with ResCap as a company,

20

correct?

21

MR. RENENGER: Object to the

22

form of the question.

23

Q. To your knowledge?

24

A. To my knowledge, yes. I mean,

25

it had been a few years since he had

1

SNELLENBARGER

2

worked there so things may have changed

3

but, yes, he was generally aware.

4

Q. Do you know if he knew

5

Mr. Marano before that meeting?

6

A. I believe he did.

7

Q. Was Mr. Niemann the connection

8

that led to that meeting?

9

A. I don't know if I would say

10

that. I mean, we had several, I think,

11

relationships from a firm perspective with

12

ResCap and I think everyone employed those

13

relationships to see if we could get a

14

meeting.

15

Q. And do you know who ultimately

16

ResCap hired as their investment advisors?

17

A. Yes.

18

Q. Who was that?

19

A. Centerview Partners.

20

Q. Did you have any other meetings,

21

besides that November 2011 meeting, with

22

respect to pitching ResCap for work?

23

A. No.

24

Q. When was the first time that

25

you -- well, you are engaged here in

1

SNELLENBARGER

2

connection with the ad hoc group, correct?

3

A. Correct. And the trustee

4

currently.

5

Q. And the trustee. When did that

6

first begin, when did you first start

7

working for the trustee?

8

A. With the trustee?

9

Q. Yes.

10

A. This was probably last summer,

11

summer 2013, I believe.

12

Q. Is there an engagement letter

13

between Houlihan and the trustee?

14

A. Yes.

15

Q. Is that something that you

16

provided to counsel that's produce in this

17

case?

18

A. I believe so and during the

19

phase one process.

20

Q. We have seen an engagement

21

letter from February 2012 between Houlihan

22

and the ad hoc group. How did that

23

engagement arise?

24

A. As indicated previously, after

25

we were not selected to be the company's

1

SNELLENBARGER

2

investment banker, we reached out to a

3

variety of holders that were invested in

4

the junior secured notes, began discussion

5

with them. They formed their own kind of

6

ad hoc group and then called and said they

7

would like to retain us as their financial

8

advisor. And so we began that process and

9

ultimately signed up or agreed to an

10

engagement letter with them.

11

Q. When did that process start?

12

A. Discussions started in December

13

and then ultimately we, I think we signed

14

a letter in February.

15

Q. And did you meet in person with

16

members of the ad hoc group at that time?

17

A. We had a lot of telephone calls.

18

I think we met individually, you know, in

19

person on kind of an ad, for lack of a

20

better term, an ad hoc basis.

21

Q. Which members did you meet

22

personally at that time?

23

MR. RENENGER: Object to the

24

form of the question. With respect to

25

when in time you mean?

1 SNELLENBARGER

2 MR. WALSH: Well, this is all in
3 late 2011.

4 Q. Is that correct?

5 A. Or early 2012.

6 Q. Fixing that as the time period,
7 when and who did you meet with?

8 A. I believe we met with Davidson
9 Kempner, Pentwater Capital I believe in
10 person. Others I think we had telephone
11 calls with.

12 Q. Pentwater is in Chicago?

13 A. Correct.

14 Q. You met with them?

15 A. Yes.

16 Q. Had you worked with Pentwater
17 before?

18 A. No.

19 Q. Had you worked with Davidson
20 Kempner before?

21 A. Yes.

22 Q. In what matters?

23 A. I'm trying to think. They were
24 involved in St. Vincent Catholic Medical
25 Centers years back on our committee or

1 SNELLENBARGER

2 investor. I think they are involved in
3 general growth properties, if I recall.

4 Q. Any other holders of the JSNs
5 that you met with in 2011, early 2012?

6 A. In person, no, not that I
7 remember.

8 Q. Same question but
9 telephonically?

10 A. Yeah. We spoke to Appaloosa.
11 We spoke to, I believe, Marathon, Silver
12 Point.

13 Q. When you met with the various
14 holders of the JSNs, did you provide a
15 pitch book to them?

16 A. We did.

17 MR. WALSH: This will be AHG 9.

18 (AHG Exhibit 9, e-mail, marked
19 for identification, as of this date.)

20 Q. Mr. Snellenbarger, you have
21 Exhibit 9 in front of you. Do you
22 recognize this e-mail from May 2012?

23 A. I see it. It's been a long
24 time, but I generally understand the
25 reason for the e-mail.

1 SNELLENBARGER

2 Q. Ben Ilhardt is the Houlihan
3 colleague that you mentioned earlier,
4 correct?

5 A. Correct.

6 Q. He sent this on May 11, 2012, to
7 Alan Leavitt at Beach Point?

8 A. Yes.

9 Q. Do you know who that is?

10 A. I believe he's an investment
11 advisor at a hedge fund.

12 Q. Beach Point is a hedge fund?

13 A. I believe so, yes.

14 Q. Were they a holder -- we have
15 even using the word "JSN," junior secured
16 notes. You understand what I mean by
17 that, correct?

18 A. Yes.

19 Q. Was he a holder of JSNs?

20 A. I don't remember whether he was
21 a current investor or whether he was
22 looking to invest.

23 Q. You see that you are copied on
24 this e-mail?

25 A. Yes.

1

SNELLENBARGER

2

Q. And the title of the e-mail is

3

ResCap Public Book. Do you know what that

4

refers to?

5

A. Yeah. We had put together some

6

discussion materials based on public

7

information that we could share with

8

investors or potential investors that may

9

be interested in ResCap on a public basis.

10

Q. And if you see the e-mail, it's

11

three items that Ben has forwarded to

12

Alan. Set of discussion materials from

13

third quarter 2011, supplemental update

14

for fourth quarter and a draft company org

15

structure. And your understanding is all

16

of these materials were based on publicly

17

available information?

18

A. Correct.

19

Q. Turn to the page ending 561.

20

A. Okay. Yes. I'm here.

21

Q. Are these the discussion

22

materials for third quarter 2011?

23

A. I believe so, yes.

24

Q. Do you know who prepared these?

25

A. Houlihan did.

1 SNELLENBARGER

2 Q. Do you know who at Houlihan was
3 involved?

4 A. I was, Jeffrey Lewis, Ben
5 Ilhardt, Matt Niemann.

6 Q. Do you recall roughly when this
7 was prepared?

8 A. It was in probably late 2011.
9 It's based on ResCap's publicly financials
10 as of end of third quarter 2011. So it
11 was sometime late fall.

12 Q. Did you provide this document to
13 members of the, holders of the JSNs in
14 late 2011, early 2012?

15 A. I believe we did, yes.

16 Q. Is this the pitch book for the
17 pitch?

18 A. I don't recall whether we did
19 anything else or not. We just kind of
20 showed, summarized, you know, the
21 financials and the situation for the
22 holders. I don't know if we had any other
23 materials. We may have sent some -- I
24 guess we had the Houlihan Lokey overview
25 phase II. This is probably similar to

1 SNELLENBARGER

2 what we sent.

3 Q. Was this the first set of
4 materials that Houlihan prepared on
5 ResCap?

6 A. I believe so.

7 Q. If you turn to the page, I'm
8 going to use the page numbers from the
9 presentation, page 5 of the presentation.

10 A. Okay.

11 Q. What does this page reflect?

12 A. It's a brief summary of ResCap
13 the company and a summary of its assets
14 and liabilities.

15 Q. Do you know if by this time
16 Houlihan had reviewed the security
17 agreement that was underlying the junior
18 secured notes?

19 A. By this time, what time are you
20 referring to?

21 Q. By late 2011 when this document
22 was prepared.

23 A. If it was public, if the
24 security agreement was public. I just
25 don't recall if it was. If it was -- I

1

SNELLENBARGER

2

think it was -- then I think we would

3

have.

4

Q. We will look later at some of

5

the analysis of the collateral and if that

6

refreshes your recollection, let us know.

7

A. Okay.

8

Q. The last bullet on this page 5

9

refers to "Ultimate value recoveries

10

associated with ResCap's borrowings."

11

What are you referring to there?

12

A. I think ResCap had a significant

13

number of different debt obligations and

14

we were just highlighting ultimately what

15

recoveries those different debt

16

obligations may be. It would be dependent

17

on a variety of different issues.

18

Q. Including how different

19

collateral pools would be allocated to

20

various subsidiaries, correct?

21

A. Correct.

22

Q. And what does that mean?

23

MR. RENENGER: Object to the

24

form of the question.

25

A. On a public basis, because

JSN Objection:
152:18 – 153:8, FRE 611(a)
(Vague and ambiguous)

1

SNELLENBARGER

2

that's all we had at the time, we knew

3

that different collateral was at different

4

legal entities and determining who had

5

guarantors there, who had liens there, et

6

cetera, I think we determined the

7

recoveries or the various debt

8

obligations.

9

Q. And you knew at this time that

10

the junior secured noteholders had liens

11

on certain assets?

12

A. I believe so. To what extent I

13

don't think we knew. But I think we knew

14

that they had liens to some extent.

15

Q. What was your understanding of

16

what their liens were as of this time,

17

late 2011?

18

A. Yeah. In the public financials,

19

there was some liens that were attached to

20

the junior secured notes. And so we knew

21

that they had some. That that was based

22

on the public information.

23

Q. Do you recall which assets were

24

subject to those liens?

25

A. I just don't remember what the

1

SNELLENBARGER

2

public financials had said. I mean, I

3

know now. Obviously everything, liens

4

that they had, I just don't remember what

5

was disclosed in the public financials. I

6

know on a public basis they had certain

7

servicer advances, I believe, and held for

8

sale loans.

9

Q. The bullet point goes on to

10

reference "the amount and treatment of

11

contingent liabilities beyond what ResCap

12

has currently reserved for." What is

13

referenced there?

14

A. Well, I think we are referring

15

to the various potential claims against

16

the estate with respect to RMBS claims

17

and, you know, different holders of those

18

securities asserting claims against the

19

company for the performance of those

20

securities.

21

Q. And what was your knowledge of

22

those claims based upon as of this time?

23

A. Just I think there was public --

24

I think ResCap had made some reserve for

25

those liabilities. And then there was, I

1

SNELLENBARGER

2

think, articles out there discussing

3

whether that was, you know, if there were

4

additional claims that might be asserted,

5

et cetera.

6

MR. RENENGER: I just want to

7

clarify for the record, there's

8

multiple page 5s in this one Exhibit 9

9

since there's three attachments to the

10

e-mail that are all together so the

11

Bates number for the page we have been

12

discussing is 9566.

13

MR. WALSH: Thank you.

14

Q. If you turn to page 9.

15

MR. WALSH: 570 are the Bates

16

numbers.

17

A. I'm here.

18

Q. This is entitled, Summary of

19

Historical Borrowing Funding Facilities.

20

Briefly, can you describe what this page

21

reflects?

22

A. I think this is a brief summary

23

of ResCap's historical borrowing and how

24

it raised debt, consolidated debt, and

25

then we provided a simple schedule down

1

SNELLENBARGER

2

below based on public financials of the

3

total of ResCap's debt outstanding over

4

the last four years.

5

Q. You understood that there was a

6

revolver with Ally, correct?

7

A. Yes.

8

Q. And that the junior secured

9

notes -- well, you understood they were

10

senior secured notes and that there were

11

junior secured notes, correct?

12

A. Correct.

13

Q. And you had a basic

14

understanding based on public filings of

15

the assets that formed the collateral for

16

each?

17

A. Based on the public financials.

18

Q. So if you turn to page 12 of the

19

presentation, Bates number ending 573.

20

This is a summary of pledged assets, and

21

if you look at footnote 2, it reads

22

"Junior secured notes are partially

23

secured by same collateral as parent

24

senior secured credit facility."

25

What does that refer to?

1

SNELLENBARGER

2

A. I believe based on the public

3

financials, it showed that the junior

4

secureds have a second lien on the

5

collateral related to the Ally senior

6

secured facility.

7

Q. And that, again, was based on

8

public information?

9

A. Correct.

10

Q. If you turn to page 16, Bates

11

number ending 577.

12

A. I'm here.

13

Q. This page is entitled 9 5/8s

14

Junior Secured Notes, Summary of Select

15

Provisions. What does this refer to?

16

A. This answers my question

17

previously. It's a summary of the junior

18

secured note indenture based on its being

19

publicly filed.

20

Q. You had read and reviewed -- you

21

had read that document in preparing this

22

document?

23

A. Correct.

24

Q. And that document was publicly

25

available as of June 2008 or at least the

1

SNELLENBARGER

2

filing of the 10-Q dated June 30, 2008?

3

A. I believe so. That's what the

4

source says on this document.

5

Q. You see that one of the items

6

laid out here is collateral. You had read

7

the provisions in the indenture document

8

regarding the collateral for the junior

9

secured noteholders?

10

A. I believe we had reviewed what

11

was in the indenture.

12

Q. Including the collateral

13

provisions?

14

A. Yeah. As a general matter. I

15

mean, we weren't obviously lawyers. We

16

were just trying to get a general sense of

17

what that was. But, yes.

18

Q. Is it fair to say this was an

19

important document in analyzing any

20

potential recovery by junior secured

21

noteholders?

22

MR. RENENGER: Object to the

23

form of the question.

24

A. Absolutely. And indenture is

25

very important with respect to what rights

1

SNELLENBARGER

2

the junior secured notes have with respect

3

to recovery collateral or otherwise.

4

Q. Did you study the indenture

5

document in preparing this presentation?

6

A. Well, yes. I mean, we reviewed

7

it and put a summary together, you know,

8

to the best of our knowledge at the time.

9

I can't say we had full extent of

10

understanding of every detail but we

11

reviewed the best we could.

12

Q. Do you know if White & Case was

13

involved in any of the ResCap issues as

14

they relate to junior secured noteholders

15

by this time?

16

MR. RENENGER: Object to the

17

form of the question.

18

A. By what time?

19

Q. By late 2011 when this document

20

was prepared.

21

A. We had become aware by some of

22

the holders that they had begun

23

discussions with White & Case. And I

24

don't remember if it was late 2011 or

25

early 2012. And then one of the holders,

1 SNELLENBARGER

2 I don't remember, one or two of the
3 holders, I don't remember who, recommended
4 that we sit down with White & Case.

5 Q. When was that?

6 A. It was either late 2011 or early
7 2012.

8 Q. Do you know who was retained
9 first, Houlihan or White & Case?

10 A. I believe White & Case was.

11 Q. Were there any other documents
12 besides the indenture that you reviewed in
13 connection with this presentation?

14 A. Well, as I said before, the
15 ResCap's public financial statements and
16 research reports and various articles.

17 Q. If you turn to 21 of the
18 presentation. It's Bates number ending
19 582. This is an overview of contingent
20 liabilities. What are the contingent
21 liabilities that are reflected here?

22 A. I believe it summarizes rep and
23 warranty claims and other securities
24 claims against ResCap from a variety of
25 different security noteholders.

1

SNELLENBARGER

2

Q. On the right side there's a

3

column entitled Liability. What does that

4

column reflect?

5

A. I believe it provided a high

6

level estimate of range of what those

7

claims could be.

8

Q. And you see footnote 2, which is

9

hard to read but I will represent that it

10

reads, "Range of approximate and

11

preliminary industry and HL estimates."

12

Do you know what that footnote

13

refers to?

14

A. I believe there were research

15

reports out there and discussions about --

16

as a general matter, there were -- these

17

types of claims were being asserted

18

against a variety of different financial

19

institutions. And there were some

20

settlement, public settlements or

21

potential settlements going on on a public

22

basis. So there were, I think, research

23

analyst reports out there trying to

24

estimate using those templates about what

25

maybe the liability would be here based on

1

SNELLENBARGER

2

the amount of loans that were originated

3

by ResCap, et cetera. So these estimates

4

were prepared just based on a very high

5

level based on that kind of data.

6

Q. These were estimates that

7

Houlihan made?

8

MR. RENENGER: Object to the

9

form of the question.

10

Q. Let me rephrase it. Were these

11

estimates that Houlihan made?

12

A. I think that we clearly utilized

13

the input that I described and utilized

14

information from various research reports

15

and laid out a range of values on a high

16

level basis.

17

Q. Am I correct that if, if you

18

look at the left column, there's a group

19

of claims identified as representation and

20

warranty claims and fraudulent

21

underwriting\securities litigation. Am I

22

correct that the right column, liability,

23

where you see a dotted line around, those

24

are estimates for that set of claims?

25

A. For the private label and whole

1 SNELLENBARGER

2 loan, yes.

3 Q. I see. So you separated the
4 agency claims?

5 A. Correct.

6 Q. Is it correct that by that time
7 the agency claims had been settled?

8 A. I think that's why we separated.
9 I think most of them had been settled by
10 that time, correct.

11 Q. So am I correct that at this
12 time the estimate, preliminary estimate
13 and Houlihan estimate for private label
14 and whole loans claims was 2.5 to
15 3.5 billion?

16 A. And I think as we noted, it
17 could be up to 5 to 6 billion.

18 Q. That was the estimate as of this
19 time?

20 A. Yes. And again, this was based
21 purely on public financial information.
22 We weren't retained by anybody at the
23 time. We had limited knowledge it was --
24 it was a -- almost illustrative at best.

25 Q. If you turn to page 27 of the

1

SNELLENBARGER

2

presentation. Page ending 588.

3

A. I'm here.

4

Q. This is a situation overview.

5

And on the right side Houlihan has

6

identified constraints and challenges.

7

And there's a heading, Contingent

8

Liabilities.

9

A. Yes.

10

Q. You see it?

11

A. I do.

12

Q. The second bullet,

13

"Reps\warranty obligations could be

14

meaningfully larger than the \$829 million

15

reserve currently in place."

16

A. I see that.

17

Q. And that was Houlihan's position

18

as of this time period?

19

MR. RENENGER: Object to the

20

form of the question.

21

Q. Is that consistent with

22

Houlihan's position as of this time

23

period?

24

A. I would say so. I mean, as I

25

said before, you know, based on public

1

SNELLENBARGER

2

kind of settlement comparables and so

3

forth, I think the general consensus in

4

the market, too, was that those claims

5

could be much larger than 800 million.

6

Q. If you turn to page 30 of the

7

document.

8

A. I'm here.

9

Q. Page ending 591, entitled

10

Contingent Liability Management. And the

11

page reads, second bullet, "Addressing

12

these issues will be crucial to evaluate

13

options to reduce their negative potential

14

impacts on the company, its parent and the

15

ability to carry out a successful

16

long-term transaction."

17

What is your understanding of

18

that sentence?

19

A. I think we were simply saying

20

that the claims were not quantified. It

21

could be significant. And given the

22

company was not in bankruptcy at the time,

23

that it was hindering the company's

24

ability to operate and to raise additional

25

financing given the unknown quantity.

1 SNELLENBARGER

2 Q. And then the first full bullet
3 reads, "A deep dive diligence on these
4 liabilities will be necessary to fully
5 understand and communicate the issues and
6 available options to outside parties and
7 government entities whose support will be
8 necessary to move forward."

9 What is referred to there?

10 A. I think we were merely trying to
11 say that given the limited public
12 information, that you'd have to do a full
13 analysis of what we thought those
14 liabilities may or may not be. And you
15 had to deal with those parties in order to
16 understand what their concerns and issues
17 were to facilitate some kind of
18 resolution.

19 Q. Turn to page 33. It's 594 Bates
20 number.

21 A. I'm here.

22 Q. Noteholder Considerations.
23 What's reflected on this page?

24 A. I think here we were just trying
25 to summarize what we thought were issues

1 SNELLENBARGER

2 to consider with respect to the junior
3 secured noteholders as they evaluated
4 their position.

5 Q. The first bullet point, second
6 sentence references the collateral pledged
7 under the Ally facility and a fair value
8 of 1.4 billion. And it reads, "Implying
9 excess of \$602 million available for the
10 \$2.1 billion of junior secured notes."

11 What is that referencing?

12 A. In the public financials, there
13 is, I believe there was a collateral
14 summary. And it showed, I believe, an
15 Ally revolver column or something to that
16 effect, and showed those assets, how to
17 value at 1.4. We knew the debt
18 outstanding in the Ally facility was 766.
19 We knew we had a second lien that resulted
20 in 600 million available for us. As we
21 ultimately know, that there was -- debtors
22 disclosed there was additional collateral
23 available for both of those parties. But
24 on a public basis, this was the only thing
25 available at the time.

1

SNELLENBARGER

2

Q. The next bullet, it reads,

3

"Beyond the secured collateral noteholders

4

will need to fully understand other

5

sources\pockets of value available for

6

secured and unsecured recoveries."

7

What's referenced there?

8

A. I think we were saying merely

9

that, look, based on the public financials

10

this is the column they are showing, but

11

the junior secured may have other

12

collateral available to them and we need

13

to examine that.

14

Q. And that was important to the

15

junior secured noteholders?

16

A. Absolutely. Or we would assume

17

so, yes, and we would think so.

18

Q. Houlihan certainly considered it

19

important?

20

A. Yes.

21

Q. And Houlihan determined that was

22

something that had to be analyzed in

23

connection with any recovery that the

24

junior secured noteholders would obtain?

25

MR. RENENGER: Object to the

1

SNELLENBARGER

2

form of the question.

3

Q. Let me rephrase. At some point

4

you were retained by members of the ad hoc

5

group?

6

A. Yes.

7

Q. Is it correct that part of the

8

assignment in connection with that

9

retainment was analyzing the collateral

10

available to the junior secured

11

noteholders?

12

A. I believe so.

13

Q. And in order to perform that

14

task, you would need to fully understand

15

other sources, pockets of value available

16

for secured and unsecured recoveries,

17

correct?

18

A. Correct.

19

Q. There's a row entitled

20

Intracompany Agreements. What's

21

referenced there?

22

MR. RENENGER: Where are you?

23

MR. WALSH: The second full row

24

is Intracompany Agreements.

25

MR. RENENGER: Thanks.

1 SNELLENBARGER

2 A. We were aware on a public basis
3 that ResCap and Ally had a variety of
4 agreements between the two companies, a
5 parent subsidiary relationship. And we
6 were just highlighting the issue that
7 those would have to be examined to
8 determine whether they were arm's length,
9 they were there, that no one side was
10 getting a better deal than the other.

11 Q. And that was something that
12 Houlihan would need to review in order to
13 assist the junior secured noteholders in
14 determining the value of their recoveries?

15 MR. RENENGER: Object to the
16 form of the question.

17 A. Yes. As a general matter, I
18 think we were at this time uncertain what
19 that impact, what that would have on the
20 junior secured recoveries. But we thought
21 it was an issue that at least needed to be
22 explored.

23 Q. If you turn to the page 37 of
24 the presentation, page ending 958.

25 This is strategic

1

SNELLENBARGER

2

considerations, strategic approach. Is it

3

fair to say this page reflects next steps

4

that Houlihan suggested for the junior

5

secured noteholders?

6

A. Yes. I think we -- our view was

7

we were trying to highlight services that

8

we could provide and help assist the

9

junior secured noteholders in their

10

evaluation of their position.

11

Q. And those services included

12

under high level process overview,

13

financial due diligence, correct?

14

A. Correct.

15

Q. And that financial due diligence

16

included evaluating all financial and

17

operational aspects of the company and

18

performing a deep dive analysis of all

19

assets pool servicing and origination

20

platforms and liabilities, correct?

21

A. That's correct. I mean, this

22

was our hope and goal that we'd be able to

23

do all this.

24

Q. And you did, in fact, do all

25

that?

1 SNELLENBARGER

2 A. Well, we were --

3 MR. RENENGER: Object to the
4 form of the question.

5 A. Ultimately, we got some
6 information. We were able to do as much
7 as we could based on the information that
8 was provided to us.

9 Q. We will get into that soon.

10 MR. WALSH: Let's take a break
11 now. Five minutes, is that okay?

12 THE WITNESS: Sure.

13 (Whereupon, there is a recess in
14 the proceedings.)

15 (AHG Exhibit 10, Letter to Mr.
16 Uzzi from ResCap, marked for
17 identification, as of this date.)

18 (AHG Exhibit 11, e-mail chain,
19 marked for identification, as of this
20 date.)

21 Q. Still looking at Exhibit 9,
22 Mr. Snellenbarger.

23 A. Okay.

24 Q. If you flip through, you'll see
25 there's another presentation. It's the

1 SNELLENBARGER

2 second page ending 9539.

3 A. I see it.

4 Q. And it's entitled, Discussion
5 Materials, Financials Updated For Fourth
6 Quarter '11. Then it's dated April 2012.
7 Is this an update of a previous
8 presentation?

9 A. I believe so.

10 Q. Houlihan prepared a presentation
11 that was entitled Fourth Quarter 2011,
12 correct?

13 A. Well, I believe we prepared the
14 presentation as of the third quarter,
15 which is the presentation we went through.
16 And then several months later, ResCap
17 produced financials for the fourth quarter
18 so we updated our numbers accordingly.

19 Q. And that was something that was
20 shown at your first deposition, if you
21 recall?

22 A. I believe so.

23 (Brief interruption.)

24 Q. And approximately when was that
25 presentation prepared?

1 SNELLENBARGER

2 A. The fourth quarter update
3 presentation?

4 Q. No. The one that you -- there
5 were two presentations. We looked at the
6 third quarter and then there was one that
7 was based on fourth quarter information.
8 And then there's a third, I assume, in
9 May, which updates the fourth quarter.
10 I'm asking about the second.

11 A. I don't know if --

12 MR. RENENGER: Object to the
13 form of the question.

14 Q. The one that we are looking at
15 now, Mr. Snellenbarger, that document was
16 prepared in 2012, correct?

17 A. Correct.

18 Q. And that document was prepared
19 based on publicly available information?

20 A. Correct.

21 Q. At some point the counsel for
22 the noteholders entered a nondisclosure
23 agreement with ResCap?

24 A. Yes.

25 Q. I'm showing you what has been

1

SNELLENBARGER

2

marked as Exhibit 10. Is this that NDA?

3

A. I believe so.

4

Q. Do you know if there was an NDA

5

that was signed by Houlihan?

6

A. I think so, yes.

7

Q. Is that something that you

8

provided to counsel?

9

A. I believe so.

10

Q. Do you know approximately when

11

that NDA was signed, the one with

12

Houlihan?

13

A. I believe it was around the same

14

time that White & Case signed.

15

Q. Next exhibit is Exhibit 11.

16

It's an e-mail from Harrison Denman dated

17

February 28, 2012. Let me know when you

18

are ready to discuss this.

19

A. I see it.

20

Q. Is this a due diligence request

21

list that Houlihan prepared for the

22

debtors?

23

A. Yes.

24

Q. At this time it was ResCap,

25

correct?

1 SNELLENBARGER

2 A. Correct.

3 Q. And was this due diligence

4 request list provided to counsel for

5 ResCap at this time period, February 28,

6 2012?

7 MR. RENENGER: Object to the

8 form of the question.

9 Q. Well, let me take it one piece

10 at a time. The bottom half of the e-mail

11 is an e-mail from Jeff Lewis to K. Chopra

12 at Centerview Partners. Who is to your

13 knowledge K. Chopra at Centerview

14 Partners?

15 A. Karan Chopra, he's a -- he works

16 at Centerview.

17 Q. And who did they represent at

18 this time period?

19 A. The company ResCap.

20 Q. And you are copied on that

21 e-mail, correct?

22 A. I am.

23 Q. What was Mr. Lewis forwarding to

24 Mr. Chopra?

25 A. A due diligence information

1

SNELLENBARGER

2

request list. The kind of information

3

that both Houlihan and White & Case would

4

like to obtain from the company.

5

Q. And why did Houlihan and White &

6

Case want to obtain this information?

7

A. To -- well, once we had signed

8

the confidentiality agreement we were told

9

we could have access to confidential

10

private information not available to the

11

public. And we wanted to continue our

12

diligence of the company and the situation

13

on a private basis.

14

Q. When was the first time that

15

either Houlihan or White & Case received

16

nonpublic information from Residential

17

Capital?

18

A. I don't recall. I would assume

19

it would be sometime shortly after this

20

was sent over.

21

Q. Are you familiar with

22

Intralinks?

23

A. I am.

24

Q. Do you know if either Houlihan

25

or White & Case or any of the noteholders'

1

SNELLENBARGER

2

representatives obtained access to

3

Intralinks around this time period?

4

A. There was a data room. I don't

5

know if it was Intralinks or not. But I

6

know there was a data room and we got --

7

we Houlihan, and I think White & Case as

8

well got access to it. I'm not sure

9

exactly what time. There were, I think, a

10

variety of different data rooms set up by

11

ResCap. So we got access to a data room

12

during that time, I believe.

13

Q. And what was your understand ing

14

of what was in the data room at that time?

15

A. Some information on the company

16

on a private basis. I mean, it was

17

populated with certain, you know,

18

financial information and other

19

agreements.

20

Q. Do you recall if at this time

21

period Residential Capital was trying to

22

sell certain of its assets?

23

A. Yes.

24

Q. And do you recall that the data

25

room that you referred to was prepared in

1

SNELLENBARGER

2

connection with the sale of those assets?

3

A. There was a data room prepared

4

for the buyers. I believe initially we

5

had a separate data room. We didn't have

6

the buyer data room. I think we had a

7

separate data room just for us that had

8

certain information in it.

9

Q. What type of information?

10

A. As I recall, certain financial

11

information, certain agreements. It

12

was -- you know, we had sent this

13

exhaustive list over. They began

14

populating the data room with some of the

15

information. There was a continual, you

16

know, back and forth request of trying to

17

get more information from the company.

18

Q. The list that we are looking at

19

in Exhibit 11, is this a standard list

20

that Houlihan has --

21

MR. RENENGER: Object to the --

22

Q. -- or was it prepared

23

specifically for this engagement?

24

MR. RENENGER: Object to the

25

form of the question.

1 SNELLENBARGER

2 Q. Let me rephrase.

3 How was this document prepared,
4 to your knowledge?

5 A. We prepared it based on what we
6 thought was important to review for
7 ResCap.

8 Q. And who at Houlihan prepared the
9 list?

10 A. Myself and my team.

11 Q. That would include Mr. Lewis?

12 A. Correct.

13 Q. That would include the other
14 individuals listed on the e-mail,
15 Mr. Ilhardt?

16 A. Yes.

17 Q. Anyone else?

18 A. Mr. Karl as well.

19 Q. Mr. Karl works at Houlihan as
20 well?

21 A. He did at the time.

22 Q. He's since left?

23 A. Correct.

24 Q. Mr. Denman, is he a lawyer at
25 White & Case?

1 SNELLENBARGER

2 A. He is.

3 Q. Do you recall roughly how long
4 it took to prepare the list?

5 A. A week or so.

6 Q. And do you recall if you
7 coordinated with White & Case on the list?

8 A. I believe we did.

9 Q. Do you recall if White & Case
10 added or deleted any materials on that
11 list?

12 A. I don't recall. I mean, the
13 e-mail says it's a compilation of both
14 White & Case billing requests. So I
15 believe that we had some dialogue back and
16 forth about what to add, et cetera, what
17 to include.

18 Q. And many of the items that are
19 listed here are nonpublic items, correct?

20 A. Yeah. Looks like it. I believe
21 so, yes.

22 Q. If you look at the first page of
23 the information requests at page ending
24 551. Under Capital Structure, item 5,
25 you've requested "supporting detail of all

1

SNELLENBARGER

2

collateral currently pledged to each

3

borrowing facility, including but not

4

limited to," and then you go through a

5

number of specific issues or specific

6

items. Why were you asking for that

7

information?

8

A. I think we wanted to get a lay

9

of the land frankly of what the company's

10

view of the collateral that was pledged to

11

each of the secured facilities.

12

Q. Did you obtain that information?

13

A. We got, received a schedule

14

actually in a meeting we had with the

15

debtors sometime maybe in March, I

16

believe, in which they provided columns of

17

debt facilities and laid out assets. And

18

the debtors had tried to lay out what they

19

thought the collateral was in each of

20

those debt silos.

21

Q. Who was the meeting with?

22

A. It was between Houlihan and

23

White & Case and the company's advisors,

24

Morrison Foerster, Centerview, and I

25

believe FTI was there as well.

1

SNELLENBARGER

2

Q. Where did the meeting take

3

place?

4

A. I believe Morrison Foerster's

5

office.

6

Q. Here in New York?

7

A. I think so, yes. Yes,

8

definitely New York.

9

Q. How long was the meeting?

10

A. Couple hours.

11

Q. And you were at the meeting?

12

A. I was.

13

Q. Were you free to ask questions

14

of Morrison Foerster, Centerview, anyone

15

out there about the collateral, the

16

collateral sheet that you were provided?

17

A. Yes. I mean, we had just

18

received it when we walked in the room so

19

we didn't have time to really examine it.

20

But, yeah, we discussed the collateral. I

21

mean, it was, as compared to the public

22

information, there was significantly more

23

detail and more, as it showed, more

24

collateral available to the junior secured

25

noteholders.

1 SNELLENBARGER

2 Q. Did you at that meeting and
3 thereafter ask for more information
4 regarding that collateral?

Plaintiff's Objection
184:2-186:18
Beyond the scope of
affirmative testimony

5 A. We did.

6 Q. And did you receive that
7 information?

8 A. Not all of it, no.

9 Q. What information did you not
10 receive regarding the collateral?

11 A. Yeah, we -- I mean, we had
12 continued to ask a bunch of details about,
13 you know, what specific loans we had liens
14 on, which servicer advances, why certain
15 collateral was allocated to the Ally LLC
16 versus the Ally revolver and our silo.
17 We -- you know, a variety of different
18 other types of, are there other ancillary,
19 you know, other collateral. We have an
20 all asset lien, does that encompass
21 anything else. Those types of questions.

22 And the debtors, there's a lot
23 of things we went around. The debtors
24 were talking to a lot of different parties
25 so we could get some information, not

1

SNELLENBARGER

2

everything. Sometimes the debt collateral

3

sheet were moved and balances were moved

4

in between silos so we were trying to

5

figure out why they were being moved, et

6

cetera.

7

Q. Was there any information

8

regarding the collateral that you asked

9

for and didn't receive that you felt you

10

needed to receive in order to perform your

11

work?

12

MR. RENENGER: Object to the

13

form of the question.

14

A. Yeah, I mean, look, we had this

15

extensive list of diligence. We didn't

16

receive all of this on this list. It was

17

not all provided. We got some

18

information. I don't recall exactly what

19

information. We didn't -- I know we

20

had -- we didn't get everything we wanted.

21

And we tried to examine things the best we

22

could based on the information we

23

received.

24

Q. Do you know if the reason that

25

you didn't get the information was that

1

SNELLENBARGER

2

the debtors did not have that information

3

or the opposite, they had the information

4

and they just didn't provide it to you?

5

A. I don't know.

6

MR. RENENGER: Object to the

7

form of the question.

8

A. I don't know.

9

Q. Let me rephrase. Was there any

10

information that you asked from the

11

debtors that they told you they did not

12

have in existence?

13

A. I'm sure there may have been. I

14

just don't know exactly what -- it's

15

difficult for me to determine what the

16

debtors had and didn't give to us versus

17

what they just didn't possess. I think

18

there was a mixture of both.

19

Q. Do you recall how long you had

20

access to the data room that you

21

referenced earlier? Was it days or weeks,

22

months?

23

A. I don't recall when we first got

24

access to the data room. I think it was

25

sometime in March maybe.

1 SNELLENBARGER

2 Q. How long did you have access?

3 A. We may still have access to it
4 now. I know it's changed over time and so
5 forth.

6 Q. If you turn to the second page
7 ending 552, there are a number of items
8 listed under D, Financial Performance. Do
9 you recall if you asked -- well, you
10 obviously asked for all of these items,
11 correct?

12 A. Correct.

13 Q. Are any of these items under D
14 that you did not receive?

15 A. I believe so. I don't remember
16 which ones. I know we had asked for
17 exhaustive, you know, financials. They
18 provided us some, not at all.

19 Q. Did you keep copies of
20 unconsolidated financial statements
21 prepared by the company or anyone else?

22 A. We were provided some copies. I
23 don't think all those financial statements
24 since 2008, no.

25 Q. You did receive copies of

Plaintiff's Objection
187:6-18
Beyond the scope of
affirmative testimony

1
2
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4
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6
7
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9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SNELLENBARGER

unconsolidated financial statements from
some period?

A. I believe so, yes.

MR. RENENGER: I just object and
I think there was a bit of ambiguity
when things would be received. I
don't know if you are asking about
that period before the PSA or...

MR. WALSH: Let me fix the time
period.

Q. The PSA was signed approximately
May 14th -- 13th, 2012.

A. I believe so.

Q. Did you receive copies of the
unconsolidated financial statements prior
to that date?

A. Certain unconsolidated financial
information, yes, not all of it.

Q. Item 1 is Annual Consolidated
and Consolidating Financial Statements.
Did you receive that prior to the petition
date?

A. We received some, not all.

Q. If you turn to the third page

1

SNELLENBARGER

2

ending 553.

3

A. Okay.

4

Q. There's an item H, Affiliate and

5

third-party relationships\transactions.

6

What are you requesting here?

7

A. We were trying to understand all

8

of the transactions between ResCap and

9

Ally and ResCap and third parties. So the

10

major material transactions that occurred.

11

Q. Why was that something you

12

requested?

13

A. Well, we thought it was

14

important to understand the relationship

15

between Ally and ResCap and whether those

16

were on play, whether there was

17

appropriate value traded between the two

18

companies. And also understanding if

19

ResCap, any other material transactions

20

with outside third parties that would

21

affect the performance of the company.

22

Q. Item 3 in the list is, refers to

23

all material capital transactions between

24

individual ResCap subsidiaries. What are

25

you requesting there? When I say 3,

1 SNELLENBARGER

2 romanette (iii) in item 1.

3 MR. RENENGER: Thanks. I was
4 lost.

5 A. Well, I think we were aware that
6 ResCap had significant operating
7 subsidiaries, RSC, GMAC mortgage. And I
8 think we just wanted to make sure that we
9 were capturing transactions related to
10 those entities as well.

11 Q. Did you receive information in
12 response to this request prior to the
13 petition date?

14 MR. RENENGER: Object to the
15 form. Are you talking (iii) request?

16 Q. Let me be more broad. With
17 respect to H(i), we have asked for a
18 summary or list of all material, capital
19 transactions between the various entities
20 between Ally Financial, ResCap and ResCap
21 subsidiaries. Did you receive information
22 in response to that request prior to the
23 petition date?

24 A. We received some information,
25 not all.

1

SNELLENBARGER

2

Q. What information?

3

A. I don't recall exactly what

4

pieces of information they received. I

5

think they sent some, some summaries of

6

certain transactions, not all of them.

7

Q. You are aware, at least prior to

8

the petition date, that the company did

9

have material transactions between

10

subsidiaries?

11

A. Yes.

12

Q. Were you aware of the scope of

13

those transactions prior to the petition

14

date?

15

MR. RENENGER: Objection.

16

Q. Either by number of transactions

17

or by dollar amount?

18

A. I don't know if we knew the

19

magnitude or how many. It wasn't really

20

publicly available so we were just trying

21

to understand the nature of those, you

22

know, transactions. We knew, as I said,

23

RSC and GMAC were their main operating

24

subsidiaries so we assumed that there were

25

significant transactions there but. I

1

SNELLENBARGER

2

mean, we were trying to understand all

3

that.

4

Q. Would you come back to Exhibit

5

9, please.

6

A. Okay.

7

Q. And we were looking at the third

8

quarter 2011 presentation. If you look at

9

the very last -- it's in the appendices.

10

The very last page of the document and the

11

very last page of the presentation, I

12

believe, you see that there is a ResCap

13

corporate structure set forth, correct?

14

A. Yes.

15

Q. Where was this information

16

obtained? From where was this information

17

obtained?

18

A. I think it was through ResCap

19

financial statements and I think there is

20

the Fed Reserve had certain public

21

information available for, on ResCap. I

22

think it was a combination of the two.

23

Q. And Houlihan was aware of this

24

information by late 2011?

25

A. Of this corporate structure,

1

SNELLENBARGER

2

yes.

3

Q. And Houlihan included it in the

4

presentation for the pitch to the junior

5

secured noteholders, correct?

6

A. Correct.

7

Q. Why?

8

A. I think any kind of complex kind

9

of distressed situation, understanding the

10

legal entity corporate structure I think

11

is important. Understanding where the

12

operations reside and where the debt

13

obligations are issued and who the

14

guarantors are I think are important.

15

Q. And that could have an impact on

16

the collateral underlying the junior

17

secured notes, correct?

JSN Objection:
193:15 – 194:3, FRE
602 (Lack of
foundation)

18

MR. RENENGER: Object to the

19

form of the question.

20

Q. Could that have an impact, the

21

understanding of the corporate structure

22

and where certain obligations lay, could

23

that have an impact the collateral for the

24

junior secured notes?

25

A. Yes.

1 SNELLENBARGER

2 MR. RENENGER: Object to the

3 form of the question.

Plaintiff's Objection
194:2-3

Beyond the scope of
affirmative testimony

4 Q. And that's why you included it
5 in the presentation?

6 A. Yes.

7 Q. And turning back to the due
8 diligence request at Exhibit 11.

9 MR. RENENGER: I just want to
10 point out, I think this is a separate
11 document in the presentation. If you
12 look at the -- it's not paginated. If
13 you look at the cover e-mail, it says
14 that there's a separate attachment, a
15 draft company org chart. So I just
16 want to clarify for the record that
17 this document does not appear to be
18 attached to that.

19 Q. Well, Mr. Snellenbarger, this
20 chart was available as of late 2011,
21 correct?

22 A. I believe -- you know, it's a
23 good question. Only because we sent this
24 e-mail in 2012 as a separate attachment
25 not attached to the 2011 agreement. I

1 SNELLENBARGER

2 know it was based on public information.

3 I can't tell you whether we had it in late
4 2011 or not now that it's been pointed out
5 that it was not included in the document.

6 Q. It's fair to say at least
7 prepetition you had the agreement,
8 correct?

9 A. Yes. I believe so.

10 Q. And if we turn back to the due
11 diligence requests.

12 A. Yes.

13 Q. You requested a list of all
14 material capital transactions among these
15 various ResCap subsidiaries, correct?

Plaintiff's Objection
195:13-197:3
Beyond the scope of
affirmative
testimony

16 A. Yes.

17 Q. If you look at item 2, you've
18 also asked, in this due diligence request,
19 for a summary/list of all the material
20 intercompany operating transactions since
21 the beginning of 2008, again, with respect
22 to the three items that are in request 1,
23 the Ally Financial and ResCap
24 transactions, the ResCap and outside
25 third-party transactions and transactions

1

SNELLENBARGER

2

among and between individual ResCap

3

subsidiaries. That is one of the items

4

that you asked for?

5

A. Yes.

6

Q. Why?

7

A. Again, we were trying to

8

determine -- not determine -- trying to

9

get an assessment of understanding of the

10

relationship between Ally and ResCap and

11

the relationship between ResCap's

12

subsidiaries amongst themselves.

13

Q. Why?

14

A. Because we wanted to understand

15

how value was flowing in between the

16

various entities and whether that would

17

affect the junior secured note's position.

18

Q. And you received information in

19

response to request H(ii), correct?

20

A. We received some information,

21

not all.

22

Q. What information do you recall

23

did you receive?

24

A. I know we received the company's

25

trial balance. And that had laid out

1

SNELLENBARGER

2

certain intercompany balances between

3

subsidiaries. I believe we received that.

4

Q. And do you recall the trial

5

balance date, the date that the trial

6

balance covered?

7

A. I don't remember. I think it

8

was December 31, 2011.

9

Q. And for what -- well, what did

10

you do with the trial balance once you

11

received it?

12

A. Just reviewed it. Trying to

13

understand where the various assets and

14

liabilities were by entity.

15

Q. If you look back at H(i).

16

You've included in the request not just

17

the capital contributions, buybacks or

18

exchanges, but you also included

19

forgiveness. What does that refer to,

20

forgiveness?

21

A. I think on a public basis we

22

understood that Ally had forgiven certain

23

obligations with ResCap over a period of

24

years. So we were trying to understand

25

that better.

1 SNELLENBARGER

2 Q. Were you aware whether ResCap
3 entities had forgiven intercompany
4 balances?

5 MR. RENENGER: Object to the
6 form of --

7 Q. As of this time period?

8 MR. RENENGER: -- question.

9 A. I don't think we were, no.

10 Q. Well, you included this request
11 with respect to individual ResCap
12 subsidiaries, correct?

13 A. Yeah, we requested it. I don't
14 think we knew it at the time.

15 Q. It was a piece of information
16 you wanted to learn, whether or not there
17 had been forgiveness between ResCap
18 subsidiaries?

Plaintiff's Objection
198:15-200:3
Beyond the scope of
affirmative testimony

19 A. Correct.

20 Q. Did you receive information on
21 that?

22 A. I don't believe so.

23 Q. And if you turn to the last
24 page, J. This refers to litigation and
25 contingent liabilities. What were you

1

SNELLENBARGER

2

requesting here?

3

A. We were trying to get detail

4

regarding the rep and warranty notice

5

security obligations that ResCap had with

6

respect to security holders.

7

Q. And that included liabilities

8

for rep and warranty cases, correct?

9

A. Correct.

10

Q. And what information did you

11

receive in response to this request?

12

A. Not much. I think at the time

13

the company had said that a lot of this

14

detail was clearly confidential but they

15

weren't willing to share it with us at the

16

time, given their discussions with the

17

various constituents.

18

Q. You are aware that the company

19

had reserves for this litigation, correct?

20

A. Yes.

21

Q. Did you ask for information

22

about that reserve?

23

A. We did.

24

Q. And what information, if any,

25

did you receive on the reserve?

1 SNELLENBARGER

2 A. Nothing other than what was in
3 the trial balance I believe.

4 (AHG Exhibit 12, e-mail from
5 Alexandra Barrage at Morrison
6 Foerster, attaching six documents,
7 marked for identification, as of this
8 date.)

9 (AHG Exhibit 13, e-mail from
10 Mr. Ben Ilhardt at Houlihan dated
11 June 12, 2012, marked for
12 identification, as of this date.)

13 Q. I have handed you Exhibits 12
14 and 13, Mr. Snellenbarger.

15 12 is an e-mail from Alexandra
16 Barrage at Morrison Foerster to a number
17 of people, attaching six documents.

18 And then Exhibit 13 is an e-mail
19 from Mr. Ben Ilhardt at Houlihan dated
20 June 12, 2012. I really want to focus on
21 Exhibit 12.

22 Is it your recollection that the
23 documents that Ms. Barrage forwarded on
24 April 30, 2012, ultimately were given to
25 Houlihan around that time period?

1 SNELLENBARGER

2 A. I believe they were.

3 Q. If you look at Exhibit 13, you
4 see that Mr. Ilhardt references the six
5 documents he received in late April.

6 A. I see that.

7 Q. What are the documents that are
8 attached to Ms. Barrage's e-mail,
9 Exhibit 12?

10 A. What are they?

11 Q. Yes.

12 A. I believe they are certain
13 intercompany agreements between certain
14 subsidiaries.

15 Q. And are these documents that
16 Houlihan or any of Houlihan's
17 representatives requested from the ResCap
18 people?

19 A. I believe so.

20 Q. And why did Houlihan request
21 these documents?

22 A. Well, I think -- I believe this
23 went to White & Case so maybe White & Case
24 requested the documents. I think we were
25 trying to determine or understand better

1 SNELLENBARGER

2 what the intercompanies related to with
3 respect to between the subsidiaries.

4 Q. Did Houlihan review these
5 documents on or around April 30, 2012?

6 A. I don't know when we received
7 these from White & Case. I know these
8 went to White & Case on April 30th. I
9 just don't know when Houlihan received
10 them from -- Mr. Ilhardt's e-mail is from
11 June, so I don't know how quickly we got
12 those versus from White & Case.

13 Q. Did Houlihan receive these
14 documents prior to the petition date?

15 A. I don't know.

16 Q. Do you know if anyone at White &
17 Case received these documents prior to the
18 petition date?

19 A. It appears so, yes.

20 Q. Mr. Denman is from White & Case?

21 A. Correct.

22 Q. The e-mail dated June 12th or,
23 sorry, 19th, Exhibit 13, references
24 paragraph, second paragraph, "discussions
25 on this topic in late April." Do you know

1

SNELLENBARGER

2

what Mr. Ilhardt is referring to there?

3

A. I know we had requested more

4

detail on intercompanies and just asked

5

for -- we are trying to understand what

6

they are, what they relate to, et cetera.

7

Can you send us any information you have

8

on them.

9

Q. And those requests were all in

10

April of 2012?

11

A. Yes.

12

Q. Did you have a face-to-face

13

meeting with anyone from Residential

14

Capital or their representatives on

15

intercompany balances prior to the

16

petition date?

17

A. Face-to-face, no.

18

Q. Did you have any telephone calls

19

on the subject prior to the petition date

20

with anyone from Residential Capital or

21

any of its representatives?

22

A. Financial advisors we did.

23

Q. You were dealing with either --

24

was it FTI?

25

A. FTI or Centerview.

1 SNELLENBARGER

2 Q. Who did FTI work for at that
3 time period?

4 A. ResCap.

5 Q. And who at FTI did Houlihan
6 interact with on intercompany balances?

7 A. Primarily Mark Renzi.

8 Q. And did you participate in any
9 phone calls with Mr. Renzi about
10 intercompany balances?

11 A. Yes.

12 Q. How many?

13 A. A couple.

14 Q. And in what time period?

15 A. Prepetition?

16 Q. Prepetition, that's fine.

17 A. Sometime in late April, early
18 May kind of time frame, I believe.

19 Q. And all of these discussions
20 were prepetition?

21 A. Yes.

22 Q. And why were you having these
23 phone calls with Mr. Renzi?

24 A. Well, we, you know, counsel,
25 White & Case, had believed that the JSNs

1

SNELLENBARGER

2

had a lien on certain intercompany

3

balances. So we were trying to understand

4

what those balances were and what impact

5

that would have on recovery.

6

Q. And did Mr. Renzi provide

7

information on the intercompany balances

8

during those phone calls?

9

A. What he provided really was the

10

balances pursuant to the -- the

11

intercompany balances pursuant to the

12

trial balance which we had had. We were

13

trying to -- at the time, both FTI and

14

Houlihan were building recovery models.

15

And so we were primarily focused on how

16

to, frankly both sides, build or model

17

this correctly and get the tos and froms

18

and the flows correctly so we could

19

provide a better view of what the impact

20

on these intercompanies would be based on

21

a variety of assumptions.

22

Q. Why were you doing that?

23

A. Because we were trying to get a

24

better assessment of what the junior

25

secured collateral and recovery would be.

1

SNELLENBARGER

2

And one component of that was

3

intercompanies.

4

Q. At this time period, do you know

5

roughly the dollar amounts of the

6

intercompany balances?

7

A. I believe so. The balances were

8

in the trial balance. So I think we

9

understood what the net balances were

10

between different entities.

11

Q. Do you recall the amounts?

12

A. I don't. I know some were 3

13

billion. Some were several hundred

14

million. They were significant balances

15

and some not that much. I know there was

16

a range of that.

17

Q. Do you recall if you had any

18

meetings with FTI in person about any

19

subject prior to the petition date?

20

A. We did. Yes.

21

Q. How many?

22

A. A few. And then we also had the

23

settlement meeting.

24

Q. What was discussed at these

25

meetings prior to the petition date? What

1

SNELLENBARGER

2

was discussed between Houlihan and FTI?

3

MR. RENENGER: Object to the

4

form of the question.

5

Q. What were the discussions with

6

FTI prior to the petition date?

7

A. Primarily we were trying to get

8

more information, some information we

9

hadn't received. We were continuing to

10

press the company to try to provide us

11

more information. Some information we

12

received didn't reconcile with other

13

information we received. So we were

14

trying to tie those out and get FTI to

15

help us do that. All of which to try to

16

get a general understanding of what our

17

position was.

18

Q. What do you mean by our

19

position?

20

A. What the JSNs, what collateral

21

they had available to them, what ultimate,

22

you know, views on the claims of the

23

estate would be, ultimate recoveries, et

24

cetera.

25

Q. Roughly how many meetings, if

1

SNELLENBARGER

2

you remember, with FTI?

3

A. There were a few face-to-face

4

and then several phone calls, I believe.

5

Q. More than three phone calls,

6

more than four phone calls?

7

A. Maybe. I mean, again, they were

8

talking to a variety of different

9

constituents, not just us, so their time

10

was limited. So, you know, we did the

11

best we could.

12

Q. And you also had face-to-face

13

meetings with Centerview, correct?

14

A. I believe so. I don't know if

15

it was separately.

16

Q. How many?

17

A. I think they were the same type.

18

They were there with the same meetings.

19

Q. Was there a division of, you

20

know, a division of responsibilities

21

between Centerview and FTI with respect to

22

the information that you were requesting?

23

A. Yes. I mean Centerview was

24

primarily responsible for the sale process

25

at the time and those types of

1

SNELLENBARGER

2

discussions. FTI was running more what we

3

call detail underlying financials. They

4

were building a model in parallel to us.

5

That kind of distinction.

6

Q. Did you have a point of contact

7

at FTI that you were dealing with in this

8

time period?

9

A. Yes.

10

Q. Who was that?

11

A. Mark Renzi.

12

Q. And did you exchange recovery

13

models with Mr. Renzi or anyone else at

14

FTI?

15

A. We didn't exchange recovery

16

models. But what we did is, we both would

17

go through a set of assumptions and say,

18

okay, if you assume the value of the

19

assets are X, if you assume intercompany

20

claims are turned on, if you assume the

21

RMBS claims are Y, what is your recovery

22

for the JSNs or the unsecured notes. And

23

we would compare those results. And we

24

were -- because what we wanted to do is if

25

we got to a settlement discussion we

1

SNELLENBARGER

2

wanted to discuss the merits. We didn't

3

want to debate math. And so we wanted to

4

ensure that our models were working or in

5

alignment as far as the math and how they

6

were flowing. So that's what we did.

7

MR. WALSH: Mark the next

8

Exhibit 14.

9

(AHG Exhibit 14, series of

10

e-mails, marked for identification, as

11

of this date.)

12

Q. Exhibit 14 is a series of

13

e-mails, apparently all on May 10th.

14

These are e-mails between FTI and

15

Houlihan, correct?

16

A. And Evercore.

17

Q. Who was Evercore working for in

18

this time period?

19

A. Ally.

20

Q. What was the purpose of these --

21

well, what was discussed in these e-mails

22

in Exhibit 14?

23

A. Give me a second. Again, this

24

was we were running hypothetical

25

scenarios. Evercore built a model

1

SNELLENBARGER

2

themselves too. So we were all trying to

3

see if we were getting the same results.

4

To make sure the math was -- we were in

5

agreement on the math, I guess, any one

6

party between us, Evercore and FTI, we

7

weren't missing something.

8

Q. Was it important in your words,

9

to get the math correct?

10

A. Yeah, I believe so. Again, we

11

wanted to avoid any debate about the math.

12

We wanted to focus discussions on merits

13

of arguments if we got to a settlement

14

discussion.

15

Q. Take a look at the first e-mail

16

in the chain that's dated May 10th,

17

1:43 p.m. from Jeff Lewis. Mr. Lewis

18

references an illustrative hypothetical

19

downside case. What is he referring to

20

there?

21

A. Again, this was just an

22

illustrative hypothetical scenario to put,

23

for all of us to put inputs into our

24

respective models to see what the recovery

25

would be. Just to test our models, to

1

SNELLENBARGER

2

stress test it effectively, to make sure

3

there weren't any blows in the respective

4

models.

5

Q. Mr. Lewis proposes four changes,

6

correct?

7

A. Yes.

8

Q. What is the first change?

9

A. Reduce all Fortress and Ally

10

purchase prices 100 basis points. One of

11

the inputs in the various models was the

12

value of the assets. And so we were just

13

saying, okay, if you reduce the value of

14

those assets by X percent, we used

15

hypothetically 100 basis points, what

16

would that do.

17

Q. What was the second change to

18

the model?

19

A. Reduce all unsold assets value

20

500 basis points. Again, there were

21

certain assets being sold at the time to

22

Fortress and Ally and there were certain

23

assets not being sold. The assets not

24

being sold were, again, the,

25

hypothetically said, okay, let's lower

1

SNELLENBARGER

2

that a hundred basis points, again to

3

stress test the model.

4

Q. And what was the third change?

5

A. Take contingent liabilities up

6

one and a half times. So instead of, I

7

don't know, 5 to 7 or 32 billion of

8

claims, we raised it one and a half times.

9

Again, I think the goal was to try to make

10

a very draconian scenario with a model

11

just to make sure there weren't any blows

12

in it, that they weren't causing any

13

destructions in the model. Again, it was

14

all just testing the math.

15

Q. You reference PLS and RMW. What

16

are you referring to there? What is

17

Mr. Lewis referring to?

18

A. I believe private label security

19

claims and rep and warranty claims.

20

Q. And what he was proposing was to

21

increase the assumption for PLS from

22

5.7 billion to 8.6 billion, correct?

23

A. That's right. Hypothetically,

24

again, just to stress test the model.

25

Q. And for the reps and warranty

1

SNELLENBARGER

2

liabilities he proposed changing that from

3

3.2 billion to 4.8 billion, correct?

4

A. That's right.

5

Q. What is the fourth change he

6

proposes to the model?

7

A. Use both a set of waterfall and

8

new waterfall 400. There was a proposed

9

agreement between Ally and the junior

10

secured notes of splitting the proceeds of

11

their collateral. And we were running a,

12

you know, there was an agreement on that

13

split and then there was a new split of

14

first 100 to Ally the next billion to

15

junior secured notes and a 20/80 split

16

after that. And so we were testing that

17

as well, to make sure everyone was getting

18

the same results on a mathematical basis

19

only.

20

Q. Was the formula for the split

21

determined fairly early in the process?

22

MR. RENENGER: Object to the

23

form of the question.

24

Q. You referenced an 80/20 split

25

and I think a waterfall, right, that

1

SNELLENBARGER

2

provided certain recovery to Ally and

3

certain recovery to the junior secureds.

4

Was that piece of the negotiations agreed

5

upon early on?

6

A. I don't know what you mean by

7

early on.

8

Q. Well, we are in May now.

9

A. I mean, yeah, we met, I'm not

10

sure when, maybe it was earlier that week,

11

when we had a settlement meeting and we

12

came to a, I would say a verbal agreement

13

between us and Ally on what that split

14

would be.

15

Q. And what was the split that was

16

agreed upon?

17

A. I believe it was, if I recall,

18

that based on proceeds Ally would get the

19

first 400 million, junior secured notes

20

would get the next billion and then there

21

would be a 20/80 split -- 20 percent to

22

Ally, 80 percent to junior secured notes,

23

although I think that was modified a

24

little bit, maybe 79/21 or 81/19,

25

ultimately got settled out, but somewhere

1

SNELLENBARGER

2

around there.

3

Q. I'll represent to you it ended

4

up as an 81/19 split on the final

5

prepetition.

6

A. Fair enough.

7

Q. Do you know what caused that

8

final adjustment?

9

A. I think subsequent discussions

10

and negotiations. I believe just final

11

tweaks.

12

Q. Were there phone calls at or

13

around May 10 about the models and working

14

through the math, as you discuss?

15

A. Yes.

16

Q. How many?

17

A. Several. I think we would send

18

these e-mails around, lay out a

19

hypothetical case, everyone would put in

20

their number, get on a call, say what are

21

you getting, what are you getting. Okay,

22

I'm not getting that. Okay, let me work

23

on something. Let's have a call in two

24

hours. That kind of stuff.

25

Q. Ultimately you did reach

1

SNELLENBARGER

2

agreement on the math?

3

A. I think so, yes. Again, these

4

were not discussions on merits or any

5

arguments. We tabled all that. So let's

6

just focus on the math and modeling, is

7

all what the purpose of these were.

8

MR. WALSH: This will be

9

Exhibit 15.

10

(AHG Exhibit 15, series of

11

e-mails from May 12, 2012, marked for

12

identification, as of this date.)

13

Q. Exhibit 15 is a series of

14

e-mails from May 12, 2012. I believe

15

between you, Mr. Snellenbarger and Karan

16

Chopra at Centerview?

17

A. Yes.

18

Q. And what were you and Mr. Chopra

19

discussing in these e-mails?

20

A. Just give me a moment.

21

Q. Sure.

22

A. Okay.

23

Q. What were you and Mr. Chopra

24

discussing in these e-mails?

25

A. There was a lot of -- the

1

SNELLENBARGER

2

debtors had laid out in their estimates

3

what the collateral was by debt silo. But

4

unfortunately, about every other day a new

5

schedule would come up where the

6

collateral would move again based on a new

7

review by the debtors. And so I was

8

talking to Karan about how we lock that in

9

or how we get comfort that this is not

10

going to continue to move around.

11

Q. When you say move around, what

12

do you mean?

13

A. The assets moving from one debt

14

silo to another debt silo. You know, one

15

day though showed hypothetically a hundred

16

million of HFS loans in our silo. The

17

next day they still revised it to 85.

18

Okay, what's going on. How do we lock

19

this down so that it stops moving and how

20

do we protect against that movement.

21

Q. There were no changes in the

22

value of the assets, just --

23

A. No, there were --

24

MR. RENENGER: Object to the

25

form of the question.

1 SNELLENBARGER

2 Q. Let me rephrase. Were there
3 changes in the values of the assets?

4 A. Well, yes. Because there was
5 assets -- I mean, the value of the assets
6 themselves? No, because the schedule is
7 based on book value. So the book values
8 weren't changing. It was the types and
9 amounts of those assets that were moving
10 around.

11 Q. Just so we are clear. There was
12 a book value assigned for various assets
13 held by ResCap, correct?

14 A. Correct.

15 Q. And there were discussions
16 between you and Centerview about which
17 silos those assets would be put in?

18 A. Correct.

19 Q. And when I refer to silos, that
20 refers to who would be entitled to
21 recovery on those assets, correct?

22 A. Correct.

23 Q. And at this point there were
24 silos for the Ally revolver?

25 A. Yes.

1 SNELLENBARGER

2 Q. And there were silos for the JSN
3 recovery, correct?

4 A. Well, the JSN and the Ally were
5 the same collateral silo because they
6 shared in that collateral.

7 Q. That was my next question. So
8 there was an individual Ally silo and then
9 there was a shared silo between JSNs and
10 Ally as of this time period?

11 A. Well, let me clarify. There was
12 two different debt obliga- -- or debts by
13 Ally. There was an Ally line of credit
14 and then there was the Ally revolver. The
15 debtors had said that we share or we were
16 junior in the collateral of the Ally
17 revolver silo and blanket lien, there's a
18 blanket lien silo as well. We shared in
19 that. We don't share in the Ally line of
20 credit silo. So there was -- and then
21 there were other secured debt obligations
22 across the sheet as well.

23 Q. And in this time period,
24 May 12th and earlier, there were
25 discussions between Houlihan and

1

SNELLENBARGER

2

Centerview about the silos and who, whose

3

collateral was whose, correct?

4

A. Yes.

5

Q. But the book values did not

6

change in that time period?

7

A. I don't believe so. I think it

8

was more about assets shifting on us, an

9

amount.

10

MR. WALSH: This will be

11

Exhibit 16.

12

(AHG Exhibit 16, two e-mails

13

between Mr. Lewis and Mr. Renzi,

14

marked for identification, as of this

15

date.)

16

Q. Exhibit 16 is an e-mail, two

17

e-mails between Mr. Lewis and Mr. Renzi.

18

The first is dated May, the second is

19

May 9, 2012. Do you recognize this,

20

Mr. Snellenbarger?

21

A. Let me look at it.

22

Okay.

23

Q. There's a file that's attached

24

to the e-mail. Can you tell me what the

25

file is?

1

SNELLENBARGER

2

A. I believe it's the way the

3

debtors had showed their assets and

4

liabilities on a public basis as of

5

March 31, 2012.

6

Q. Does it also reflect the silos

7

that we have been discussing?

8

A. Not entirely, no.

9

Q. What does it reflect?

10

A. It doesn't include the blanket

11

lien silo.

12

Q. But it does reflect the Ally

13

revolver and the Ally line of credit,

14

correct?

15

A. It does. But again, I think

16

this is a very similar format that ResCap

17

had filed publicly for many years, I

18

think. So it does reflect the Ally --

19

yes, it does reflect those columns but it

20

doesn't reflect all the appropriate silos.

21

Q. Does it reflect which silo the

22

JSNs are entitled to recover from?

23

MR. RENENGER: Object to the

24

form of the question.

25

A. Can you repeat the question?

1

SNELLENBARGER

2

Q. Does it reflect the silo from

3

which the JSNs are entitled to recover

4

from?

5

A. Partially. It footnotes the --

6

says that the value of the proceeds from

7

the sale of this collateral were used to

8

pay the Ally revolver and then the third

9

lien notes. Third lien notes I think are

10

referred to as the junior secured notes.

11

Again, this is only the public silo basis.

12

It doesn't include these blanket lien

13

silo.

14

Q. And in this time period you and

15

Mr. Renzi were exchanging this type of

16

information regarding the collateral?

17

A. Yes.

18

Q. Do you recall roughly how many

19

discussions in this time period you had

20

with Mr. Renzi about the collateral?

21

A. I mean some. You know, we were

22

trying to -- again, we were trying to lock

23

down the best we could what the debtors' --

24

what the debtors' position was on our

25

collateral. And again, you know, things

1

SNELLENBARGER

2

kind of kept moving around a bit so we

3

were trying our best to try to reconcile

4

those.

5

Q. Was there any information

6

regarding the collateral or how the

7

collateral would be allocated between Ally

8

and the JSNs that you requested and did

9

not receive prior to the prepetition date?

10

A. Yes.

11

Q. And what information was that?

12

A. Well, it was really trying to --

13

what we kept asking for and really never

14

received was, we would get these

15

spreadsheets that said, okay, here's your

16

collateral, here's what you have. Okay.

17

Well, how did you determine that? Well,

18

we looked at this and that. It was really

19

full descriptive explanations. So

20

ultimately, when we got to negotiating a

21

settlement we really just had to rely on

22

the debtors' numbers. Look, this is what

23

you have. We weren't able to

24

independently verify, okay, this really

25

should be in our bucket or this should not

1

SNELLENBARGER

2

be in our bucket. We just didn't have

3

time to do that. We didn't have the

4

information available to say whatever.

5

They were just saying, look, this is it.

6

So that's what we went with.

7

Q. From your perspective, what was

8

the most important piece of information

9

regarding the collateral that you did not

10

receive prior to the petition date?

11

MR. RENENGER: Object to the

12

form of the question.

13

A. Can you repeat the question?

14

Q. From your perspective what was

15

the most important piece of information

16

about the collateral that you requested

17

and did not receive prior to the petition

18

date?

19

MR. RENENGER: Same objection.

20

A. I would say just the detail and

21

support and the rationale of why the

22

collateral was allocated to certain silos

23

versus not. Again, we received the

24

spreadsheet. It had moved around. And we

25

couldn't really verify why it was moving

1 SNELLENBARGER

2 around. That was the challenge for us.

3 Q. Ultimately, you made a
4 presentation to the junior secured
5 noteholders regarding their recovery?

6 MR. RENENGER: Object to the
7 form of the question.

8 Q. Let me rephrase. Ultimately,
9 you made a presentation to the ad hoc
10 group regarding JSN recoveries, correct?

11 MR. RENENGER: Same objection.

12 A. We made a presentation to the
13 junior secured noteholders in a general
14 way just about the status of their
15 position, yes.

16 Q. I realize we're getting into
17 areas that may be privileged. Do you
18 recall roughly -- I'm going to ask the
19 who, what and when, not necessarily the
20 what. Do you recall when that
21 presentation was?

22 A. I believe it was early May.

23 Q. Was it around the May 10, May 12
24 period that we've been discussing?

25 A. Yeah. Yes.

1 SNELLENBARGER

2 Q. It was prior to petition date?

3 A. Yes.

4 Q. It was prior to the execution of
5 the prepetition PSA with the ad hoc group,
6 correct?

7 A. Yes, definitely.

8 MR. RENENGER: Object to the
9 form of the question.

10 Q. And where was that presentation
11 given?

12 A. In New York, I believe White &
13 Case's office.

14 Q. How long was the meeting?

15 A. Couple of hours.

16 Q. Who was there?

17 A. Houlihan, White & Case and
18 certain members of the ad hoc group that
19 had signed confidentiality agreements.

20 Q. Which ones?

21 A. Paulson, Appaloosa, Davidson
22 Kempner, Silver Point, Pentwater.

23 MR. WALSH: This will be

24 Exhibit 17.

25 (AHG Exhibit 17, e-mail with

1

SNELLENBARGER

2

attachment, marked for identification,

3

as of this date.)

4

MR. WALSH: This was used at

5

Mr. Siegert's deposition.

6

Q. If you look at the attachment to

7

Exhibit 17, the page Bates stamped 4690.

8

A. Yes.

9

Q. Is this the cover page for the

10

presentation?

11

MR. RENENGER: Object to the

12

form of the question.

13

Q. Let me ask a different question.

14

What is the page ending 4690?

15

A. I'm sorry, repeat the question.

16

Q. There's a presentation that's

17

attached to this e-mail. I believe it

18

starts at 4690. What is the document?

19

A. It was a draft of a presentation

20

we had proposed to give to our noteholder

21

group that we had sent to Centerview for

22

their review.

23

Q. And Centerview did, in fact,

24

review it, correct?

25

A. Yes.

1 SNELLENBARGER

2 MR. RENENGER: Object to the
3 form of the question.

4 Q. Was this presentation ultimately
5 used in connection with the meeting that
6 we just discussed. The meeting with the
7 members of the ad hoc group?

8 A. A version of this was. Not this
9 exact presentation.

10 (AHG Exhibit 18, presentation,
11 marked for identification, as of this
12 date.)

13 MR. WALSH: This will be
14 Exhibit 18.

15 Q. Just trying to fix a time,
16 Mr. Snellenbarger, when this presentation
17 was. It was prepetition, correct?

18 MR. RENENGER: Object --

19 Q. The meeting with the ad hoc
20 group. I'm trying to fix in time when
21 that meeting was. It was prior to the
22 petition date, correct?

23 A. Correct.

24 Q. And it was sometime after you
25 provided a draft of the presentation to

1 SNELLENBARGER

2 Centerview, correct?

3 A. Correct.

4 Q. So sometime between May 6th and
5 May 14th?

6 A. Yes.

7 Q. And it was it was in White &
8 Case's offices here in New York?

9 A. I believe so.

10 Q. If you look at Exhibit 18. Is
11 this the presentation -- is this the
12 document that was reviewed at that meeting
13 to your knowledge? And I recognize it's
14 redacted.

15 A. This may be a version of it.
16 This says draft. I don't know if this is
17 the final version.

18 Q. If you look at page 5 of the
19 presentation, Bates stamp 4685, top right
20 corner says "Previously sent to the
21 company."

22 A. I'm sorry, where are you?

23 Q. Page 5 of the presentation.
24 Houlihan page 5. And it's on a number of
25 other pages previously sent to the

1 SNELLENBARGER

2 company?

3 A. Yes, I see it.

4 Q. Does that refresh your
5 recollection that this was prepared after
6 it was sent to Centerview?

7 A. This was prepared after it was
8 sent to Centerview, yes. I just don't
9 know if this was the final version that we
10 ultimately presented to the ad hoc group.

11 Q. Would you look now and see if
12 there's anything in the document that
13 refreshes your recollection whether this
14 was, in fact, what you presented to the ad
15 hoc group at that meeting?

16 A. I don't believe it is the final
17 version, no.

18 Q. Why do you say that?

19 A. Because I think we had certain
20 additional caveats that were included in
21 the version that we presented to our
22 client.

23 Q. Where are you looking?

24 A. The very beginning of the
25 document.

1 SNELLENBARGER

2 Q. What caveats within the version
3 that you presented to the client, if you
4 recall?

5 MR. RENENGER: I'm just going to
6 object and instruct the witness that
7 to the extent the information the
8 questioner is asking about relate to
9 information that was contained in a
10 deck pursuant to discussions with
11 counsel, or at the direction of
12 counsel, I will instruct you not to
13 answer on the basis of attorney-client
14 privilege. But if it's otherwise, you
15 may answer.

16 THE WITNESS: Then I can't
17 answer.

18 Q. Due to your counsel's
19 instruction?

20 A. Correct.

21 Q. Well, is it fair to say that the
22 final presentation that you did give, the
23 presentation that you did give to your
24 clients included a recovery analysis for
25 JSNs?

1 SNELLENBARGER

2 MR. RENENGER: I would give the
3 same instruction to the extent you can
4 answer that based upon, other than
5 conversations with counsel, or even
6 based on what's in front of you, you
7 may do so.

8 Q. Just look at page 3, Contents.
9 You'll see that one of the items that is
10 within the document, according to this
11 page at least, is "potential recovery
12 outcomes." It's the third line down in
13 the middle of the page?

14 A. What page are you on?

15 Q. Page 3 of the presentation, page
16 4694 of the document. Sorry, 4693.

17 A. I see that, yes.

18 Q. Without disclosing what the
19 potential recovery outcome was, is it fair
20 to say that one of the things that was
21 discussed with your clients at the meeting
22 that we have been discussing prepetition
23 was a potential recovery outcome?

24 A. Yes.

25 Q. You see above the item contents

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SNELLENBARGER

there's a summary of tasks performed. Am
I correct that by this date, the date of
the meeting, Houlihan had completed these
tasks?

A. Yes.

Q. If you can turn to page 5 of the
document. It's the page ending 4695. Is
this a collateral overview? And when I
say this, I'm referring to the chart, the
numerical chart on this page.

A. I see it.

Q. Is this a collateral overview?

A. Provided by the debtors, yes.

Q. And this provides, additionally,
information about the silos that we have
been discussing, correct?

A. Correct.

Q. Does it provide information on
the silo that is assigned to Ally?

A. Yes.

Q. And does it also provide
information regarding silos available to
the JSNs?

A. Yes. Again, these weren't

1

SNELLENBARGER

2

Houlihan's numbers. These were just

3

provided by the debtors, or I guess ResCap

4

at the time, to us.

5

Q. At this point, did Houlihan have

6

any reason to question the number that the

7

debtors had provided regarding the

8

collateral?

9

A. Yes.

10

Q. Why? What was the reason?

11

A. Because the, as I had said

12

before, these collateral silo buckets had

13

continued to move around a bit. And the

14

debtors had said, okay, this is in the

15

Ally LLC, this is in the Ally revolver and

16

then it would change. And so we were

17

continually concerned about whether this

18

was an accurate representation but we

19

didn't have the information at the time to

20

evaluate whether it was or it wasn't so we

21

used the debtors' numbers.

22

Q. Did you relay your concerns to

23

your clients?

24

A. Yes.

25

Q. What was their response?

1 SNELLENBARGER

2 MR. RENENGER: And I'm going to
3 instruct the witness to the extent
4 that this discussion was part of a
5 privileged discussion with counsel, I
6 would instruct you not to the answer.
7 To the extent it wasn't in connection
8 with the request for legal advice or
9 something done at the direction of
10 counsel, you may answer.

11 A. I cannot answer.

12 Q. Due to the instruction?

13 A. Correct.

14 Q. If you turn to the page 10 of
15 the presentation.

16 A. Okay.

17 Q. I recognize some portion of this
18 has been redacted. I believe the bottom
19 right corner. But it does reflect an Ally
20 contribution of \$950 million. Do you see
21 that?

22 A. I see that, yes.

23 Q. And what does that reflect?

24 A. I believe the proposal on the
25 table at the time was Ally was going to

1

SNELLENBARGER

2

contribute 750 million of cash. And then,

3

I believe, pay an incremental \$200 million

4

on the held for sale loan portfolio of

5

what they agreed to purchase. I think, I

6

think that's how it was derived.

7

Q. And what was your understanding

8

of what Ally would receive in return for

9

their contribution?

10

A. Full releases from the

11

interested parties with ResCap.

12

Q. At this point or any point prior

13

to the petition date, did Houlihan

14

understand whether the JSNs had a lien on

15

causes of actions against Ally?

16

MR. RENENGER: I'm going to

17

object to the form of the question and

18

instruct the witness, to the extent

19

you can answer that question without

20

getting into privileged discussions

21

that you may have had with counsel or

22

work you did at the direction of

23

counsel, you may answer. Otherwise, I

24

will instruct you not to answer on the

25

basis of privilege.

1 SNELLENBARGER

2 A. I can't answer.

3 Q. You are following your counsel's
4 instruction?

5 A. Correct.

6 Q. Just for sake of simplicity,
7 every time you say I can't answer, it is
8 because you are following your counsel's
9 instruction?

10 A. Yes, thank you. Thank you for
11 that clarification.

12 Q. Turn to page 22 of the document.
13 Again, I recognize that some portion of
14 page 22, which is Bates stamped 4712, is
15 redacted. But do you see the item
16 Intercompany Claims?

17 A. I do.

18 Q. What does that line reflected
19 regarding intercompany claims?

20 A. We would simply say for purposes
21 of the analysis, the impact of the
22 intercompany claims may be excluded but if
23 they were allowed, it would increase the
24 security coverage to the secured notes.

25 Q. And you advised your client of

1

SNELLENBARGER

2

that fact?

3

MR. RENENGER: I'm going to

4

again object to the form of the

5

question. To the extent the actual

6

discussions with your client as

7

opposed to what's in this deck

8

involved legal advice or was done at

9

the direction of counsel as work

10

product, I'm going to instruct you not

11

to answer.

12

A. I can't answer with the

13

instruction of counsel.

14

Q. Going back to page 10.

15

A. Okay.

16

Q. The title of this is Summary of

17

Estimated Recovery Assumptions. It's fair

18

to say that what's reflected on this page

19

are the assumptions that had an impact on

20

estimated recovery, correct?

21

A. Yes.

22

Q. And that included the Ally

23

contribution?

24

A. Yes. Well, let me clarify that.

25

To the extent we were oversecured, then

1

SNELLENBARGER

2

the Ally contribution would be less

3

impactful for the junior secured recovery.

4

We had full hard assets that showed a full

5

secured recovery. The Ally contribution

6

wouldn't impact our recovery. We could

7

get our share of the Ally contribution

8

through our deficiency claim or account of

9

increased intercompany value, if

10

necessary.

11

Q. Did Houlihan have a position one

12

way or the other whether the JSNs were

13

oversecured at the time of the petition

14

date?

15

MR. RENENGER: I'm going to

16

instruct the witness that to the

17

extent Houlihan's view on that issue

18

was based upon work product or advice

19

of counsel, I would instruct you not

20

to answer. Otherwise, you can answer.

21

A. I can't answer on the

22

instruction of counsel.

23

Q. If the JSNs were unsecured you

24

would agree with me that the Ally

25

contribution would have an impact on their

1

SNELLENBARGER

2

recovery, correct?

3

A. Correct.

4

Q. What assumptions, if any, did

5

this analysis that's contained in the

6

document have with respect to the RMBS

7

litigations?

8

A. Would you repeat the question.

9

Q. What assumptions, if any,

10

regarding the RMBS litigations are

11

included or reflected in this document?

12

A. Well, the assumptions are

13

redacted but if to develop a hypothetical

14

recovery model you needed to make certain

15

assumptions on what the other claims were,

16

where they may be asserted so that you

17

could determine ultimately what our

18

recoveries were. If we were undersecured

19

it would impact our deficiency level.

20

Q. How?

21

A. We would -- we would share or

22

receive distribution -- our -- if we were

23

undersecured, hypothetically, then our

24

deficiency claim would share in

25

distributions pro rata with other

1

SNELLENBARGER

2

unsecured claims depending where those

3

claims resided or whatever these, et

4

cetera.

5

Q. We saw in the correspondence

6

between Mr. Renzi and yourself and

7

Mr. Lewis one of the changes you were

8

making to the models was changes with

9

respect to those contingent liabilities,

10

correct?

11

A. Correct.

12

Q. And during this time period, you

13

were analyzing the impact of those

14

contingent liabilities, including the

15

impact of the RMBS litigation, correct?

16

A. I wouldn't say the impact of

17

litigation. I guess really the impact of

18

what claim amount they may be. We weren't

19

really privy to the litigation or what

20

those discussions were. We just were

21

using a range of claim estimates to try to

22

understand what impact that may have.

23

Q. Prior to the petition date, were

24

there any discussions within Houlihan or

25

within any of the ad hoc group members and

1

SNELLENBARGER

2

Houlihan regarding whether the RMBS

3

litigation claims should be subordinated

4

in the plan that was being proposed?

5

MR. RENENGER: I'm going to

6

instruct the witness that due to the

7

extent you can answer that question

8

without getting into discussions that

9

may have involved counsel or work that

10

you did under the direction of

11

counsel, then you may answer.

12

Otherwise, I would instruct you not to

13

answer.

14

A. I can't answer at the

15

instruction of counsel.

16

Q. Do you understand what it means

17

to be subordinated in a bankruptcy claim?

18

A. I do.

19

Q. What impact, if any, would

20

subordination of RMBS claims have on JSNs

21

recovery?

22

A. It would improve the recovery.

23

Assuming we are -- well, it would impact

24

it two ways. If we were undersecured,

25

undersecured, excuse me, our deficiency

1

SNELLENBARGER

2

claim would -- value would increase

3

because we are not sharing with those

4

other claims. They would be paid after

5

us. So we would have a first look of

6

unrecovered value. Also, the value or the

7

impact on the intercompany claims would

8

increase if those claims were paid before

9

these subordinated claims were.

10

Q. You are familiar with the issue

11

of subordination prior to your involvement

12

in ResCap, correct? You were generally

13

familiar --

14

A. As a general matter, yes.

15

Q. You were generally familiar that

16

securities claims are subordinated below

17

general unsecured claims, right?

18

MR. RENENGER: Object to the

19

form of the question.

20

Q. I'm not asking whether you are a

21

lawyer or not.

22

A. Okay.

23

Q. You were familiar prior to this

24

engagement that subordination existed.

25

That was something that could be done in a

1

SNELLENBARGER

2

bankruptcy claim?

3

A. As a general matter, yes. Not

4

in a lot of detail.

5

Q. At least with respect to an

6

economic recovery, you understood that

7

subordination could have an impact on a

8

stakeholder's recovery?

9

A. Yes.

10

Q. And were there any discussions

11

with respect to subordination in the

12

ResCap engagement prior to the petition

13

date, any discussions among Houlihan any

14

discussions between Houlihan and the ad

15

hoc group?

16

MR. WALSH: Just on the topic.

17

I understand your instruction, Aaron.

18

I'm not asking for the content of the

19

discussions.

20

Q. All I'm asking for is a yes-no

21

answer. Was the issue of subordination

22

discussed either within Houlihan or

23

between Houlihan and the ad hoc group?

24

MR. RENENGER: And I would just

25

instruct the witness if you can answer

1

SNELLENBARGER

2

the question yes or no, but I wouldn't

3

go beyond that in response to this

4

question, please.

5

A. Yes.

6

Q. Was it discussed multiple times?

7

A. I don't recall.

8

Q. Let me break it up. Were there

9

discussions between Houlihan and the ad

10

hoc group regarding the issue of

11

subordination prior to the petition date?

12

MR. RENENGER: You may answer it

13

yes or no. For this entire series of

14

questions if it calls for a yes or no,

15

I would encourage you to answer yes or

16

no, given those concerns.

17

A. We did not have any discussions

18

without counsel present with respect to

19

that.

20

Q. Let me include counsel. I'm not

21

asking you to divulge the discussions but

22

the topic of subordination, was that

23

discussed among the ad hoc group prior to

24

the petition date?

25

A. Yes.

1 SNELLENBARGER

2 Q. Was it discussed as it related
3 to the RMBS litigation?

4 A. I'm not certain --

5 MR. RENENGER: Again, it's a yes
6 or no question or I don't recall in
7 response to that particular question.

8 A. Yeah, I don't recall.

9 Q. You appreciated at least at the
10 time you were performing those models
11 prepetition that the RMBS claims would not
12 be subordinated, correct?

13 MR. RENENGER: Object to the
14 form of the question.

15 Q. I saw some e-mails.

16 A. I'm sorry, can you repeat the
17 question?

18 Q. Feel free to refer to any of the
19 documents. But we saw e-mails regarding
20 various changes to the models and the
21 discussions with FTI about those changes
22 to the models. The changes to the models
23 with respect to the RMBS reflected the
24 changes in amounts, correct?

25 A. Correct.

1 SNELLENBARGER

2 Q. You were aware that the RMBS
3 claims would be treated as general
4 unsecured claims in a proposed bankruptcy,
5 correct?

6 A. We were aware that that's what
7 the debtors had proposed.

8 Q. And you also analyzed the impact
9 of that treatment with respect to JSN
10 recovery prior to the petition date?

11 A. Yes.

12 (AHG Exhibit 19, document,
13 Statement of Limiting Conditions,
14 marked for identification, as of this
15 date.)

16 Q. Exhibit 19 is a three-page
17 document, Mr. Snellenbarger. This is a
18 document prepared by Houlihan, correct?

19 A. Yes.

20 Q. And it's dated May 14th,
21 correct?

22 A. Yes.

23 Q. And this is the document where
24 the JSNs disclosed their estimate of
25 recoveries, correct?

1

SNELLENBARGER

2

A. No. I would say this is simply

3

a summary of the debtors' numbers that

4

were provided and what the output is of

5

that.

6

Q. You understand this document was

7

disclosed publicly, right?

8

A. Yes.

9

Q. What was the purpose of that

10

disclosure?

11

A. Certain ad hoc group members had

12

signed confidentiality agreements for

13

settlement purposes. They were shown

14

certain information. The agreement was

15

that all the information they were shown

16

would be disclosed publicly within a

17

certain time period. The debtors

18

disclosed certain information and we

19

disclosed certain other information to

20

ensure that all was borne out.

21

Q. And Houlihan reviewed this

22

information before it was publicly

23

disclosed, correct?

24

A. Correct.

25

Q. Did Houlihan make any changes to

1 SNELLENBARGER

2 the information?

3 MR. RENENGER: Object to the
4 form of the question.

5 Q. Before it was disclosed?

6 MR. RENENGER: Changes as
7 compared to what?

8 Q. Well, let me -- you reviewed the
9 information that was going to be disclosed
10 publicly, correct?

11 A. Um-hmm, yes.

12 Q. At some point you received a
13 draft of that document?

14 A. Yes.

15 Q. Was that draft prepared by
16 Houlihan or by the debtors?

17 A. This draft?

18 Q. Draft of this document.

19 A. Well, we prepared this document
20 but we utilized the debtors' numbers for
21 this document.

22 Q. Let's look at page 2 ending
23 3474. Am I correct that the information
24 on the left side of the page under Pledged
25 Assets was provided by the debtors?

1 SNELLENBARGER

2 A. Yes.

3 Q. And it's the information that
4 was contained in the motion for cash
5 collateral, correct, at least the
6 information with respect to book value?

7 A. Yeah. I'm just --

8 Q. First bullet point.

9 A. Yes, correct. Thank you.

10 Q. The book value information was
11 provided by the debtors in the form of a
12 motion for the cash collateral, correct?

13 A. Yes.

14 Q. What is reflected under
15 illustrative market value?

16 A. These were assumptions made or
17 really these were estimates provided to us
18 by the debtors advisors on what the market
19 value was of those assets as compared to
20 the book value.

21 Q. At particular points in time,
22 correct?

23 A. Correct.

24 Q. One point in time was
25 February 29, 2012, and the other point in

1

SNELLENBARGER

2

time was December 31, 2012?

3

A. Correct.

4

Q. Did you or anyone at Houlihan

5

review that information to determine its

6

reliability?

7

A. We reviewed it but we didn't

8

make a determination of reliability. We

9

were simply using the debtors' numbers,

10

what they said that their estimates were

11

for these assets.

12

Q. For what purpose were you

13

reviewing their estimates?

14

A. To understand what the debtors'

15

view of our recovery was.

16

Q. And this reflected recoveries as

17

of -- well, market value as of

18

February 29th and market value as of

19

December 31st, correct?

20

A. Yes. As provided by the

21

debtors.

22

Q. What was the significance of the

23

December 31st date?

24

A. Well, under the PSA agreement

25

the hope, or not even the hope, the

1

SNELLENBARGER

2

agreement was that the debtors were going

3

to exit bankruptcy by December 31, 2012.

4

Q. And the information in that

5

column, which related to the proposed date

6

by which the debtors would exit bankruptcy

7

was carried over to the right side,

8

correct?

9

A. Correct.

10

Q. And that's where the estimated

11

waterfall recovery is reflected?

12

A. Correct.

13

Q. And this is the waterfall that

14

was included in the prepetition PSA,

15

correct?

16

A. Correct.

17

Q. First 400 million goes to Ally

18

and the next billion to the JSNs, correct?

19

A. Yes.

20

Q. And then there was an

21

81/19 percent split with respect to the

22

secured recovery, correct?

23

A. Correct.

24

Q. And what this waterfall has

25

reflected is a 93 percent secured recovery

1

SNELLENBARGER

2

for the JSNs, correct?

3

A. That's correct.

4

Q. And then there's deficiency,

5

correct?

6

A. Correct.

7

Q. And the deficiency recovery

8

would provide additional collateral to the

9

JSN recovery, correct?

10

A. Provide additional recovery,

11

yes.

12

Q. Additional recovery. And

13

ultimately the JSNs, under this waterfall

14

analysis, were expected to receive

15

105 percent of their claim?

16

A. Correct.

17

Q. And this information you

18

discussed with the JSNs prepetition,

19

correct?

20

A. Yes. It was part of the

21

information, yes.

22

Q. And to your knowledge, this was

23

information that the noteholders who

24

signed the prepetition PSA relied upon in

25

signing that PSA, correct?

1 SNELLENBARGER

2 A. Yes. They understood that this
3 was the debtors' view of the JSN recovery.

4 Q. And they relied upon that
5 information in signing the prepetition
6 PSA, correct?

JSN Objection:
255:4 - 6, FRE 602
(Calls for speculation)

7 MR. RENENGER: Object to the
8 form of the question.

9 A. Among many other factors, but it
10 was one of the things they looked at.

11 Q. At any point prior to the
12 petition date, did Houlihan advise the
13 JSNs who signed the prepetition PSA not to
14 sign the prepetition PSA?

15 A. I mean, any discussions related
16 to the PSA I think were privileged.

17 MR. RENENGER: To the extent the
18 advice that he's asking about would
19 have been provided in connection with
20 discussions with counsel, meetings
21 involving counsel and under the
22 direction of counsel, I would instruct
23 you not to answer on the basis of
24 privilege.

25 A. I can't answer at the

1 SNELLENBARGER

2 instruction of counsel.

3 Q. I'm only asking a yes-no. Let
4 me try to rephrase it. Was the issue
5 about whether or not to sign the
6 prepetition PSA discussed between Houlihan
7 and the JSNs who signed it?

8 MR. RENENGER: You can answer
9 that on a yes or no basis?

10 A. Yes.

11 Q. Did at any point in time
12 Houlihan instruct those noteholders not to
13 sign the prepetition PSA?

14 MR. RENENGER: I'm going to
15 object and instruct you not to answer
16 on the basis of privilege.

17 Q. Are you going to follow that
18 instruction?

19 A. Yes.

20 Q. If you look at footnote 3 on
21 this page.

22 A. I see it.

23 Q. You see that the unsecured
24 recovery assumes -- includes certain
25 assumptions regarding contingent

1 SNELLENBARGER

2 liabilities, correct?

3 A. Correct.

4 Q. Including a \$9 billion value --
5 well, \$9 billion for contingent liability
6 claims?

7 A. Correct.

8 Q. Does that amount include claims
9 for RMBS litigation?

10 A. Yes.

11 Q. And that value was included in
12 the waterfall recovery that is reflected
13 here?

14 A. Yes.

15 MR. WALSH: Why don't we take
16 our lunch break.

17 (Luncheon recess taken at 12:13 p.m.)

18

19

20

21

22

23

24

25

1 SNELLENBARGER

2 A F T E R N O O N S E S S I O N

3 (Time noted: 12:54 p.m.)

4 R E I D S N E L L E N B A R G E R ,

5 resumed and testified as follows:

6 EXAMINATION BY (Cont'd.)

7 MR. WALSH:

8 Q. Before we get to Exhibit 20, 258:8 – 259:2, FRE 611(a)
9 Mr. Snellenbarger. I asked you a number (Vague and ambiguous,
10 of questions about whether or not the misstates witness's
11 junior secured noteholders were testimony)
12 oversecured at the time of the petition
13 date. And I believe you answered that it
14 was -- I asked you about whether Houlihan
15 believed that -- and I think you got an
16 instruction from counsel whether that's
17 privileged or not. I'm going to ask the
18 question one more time just to make sure
19 we have it in the record. You understand
20 you are a witness so I'm here on behalf of
21 the ad hoc group. So I'm asking this
22 question as the witness on behalf of the
23 ad hoc group.
24 Did the ad hoc group as of the
25 petition date believe that it was

1

SNELLENBARGER

2

oversecured as of that date?

3

MR. RENENGER: And I will

4

instruct the witness that to the

5

extent that your view on that, as even

6

a fact witness for the ad hoc group,

7

is based upon discussions with counsel

8

and not a discussion that was a

9

position publicly taken but rather

10

privately held and shared between

11

members of the ad hoc group from

12

counsel, then I would instruct you not

13

to answer on the basis of privilege.

14

Q. Are you going to follow that

15

instruction, sir?

16

A. Yes.

17

Q. I have handed you Exhibit 20.

18

(AHG Exhibit 20, Houlihan

19

engagement letter from February 2012,

20

marked for identification, as of this

21

date.)

22

Q. Is this the Houlihan engagement

23

letter from February 2012?

24

A. I believe so.

25

Q. I'm not asking for exact amounts

1

SNELLENBARGER

2

but do you recall roughly how much

3

Houlihan was paid in connection with its

4

work up through and until the petition

5

date?

6

A. I believe it was 200,000 a

7

month.

8

Q. Is that set forth in the -- an

9

engagement letter?

10

A. I believe so.

11

Q. I see. Monthly fees on page 3?

12

A. Correct.

13

Q. And did the ad hoc group pay you

14

for those services?

15

A. Actually, the company paid us.

16

Q. The company paid you up through

17

the petition date?

18

A. Yes.

19

Q. And after the petition date, did

20

you continue to provide services to the ad

21

hoc group?

22

A. We did.

23

Q. In fact, you continue to provide

24

services to the ad hoc group up until

25

today, correct?

1 SNELLENBARGER

2 A. Correct.

3 Q. And you continue to incur and be
4 paid for your services, amounts for those
5 services?

6 A. We were paid monthly, our
7 monthly fees by the company, through
8 sometime last summer, I believe. And then
9 those payments stopped by the company. We
10 were then retained by the U.S. trus- -- by
11 the indenture trustee. And the trustee
12 has made our monthly payments since then.

13 Q. Do you recall roughly when that
14 summer that happened?

15 A. Early in the summer, I think.

16 Q. I'm sorry, that was summer of
17 20?

18 A. '13.

19 Q. 2013?

20 A. Correct.

21 Q. And am I correct that the first
22 month for which you were paid for
23 providing your services was February 2012?

24 A. I believe so.

25 Q. So you would have been paid

1

SNELLENBARGER

2

February 2012, March 2012, April 2012 and

3

May 2012?

4

A. I believe so.

5

Q. And you were performing work

6

continuously in that time period?

7

A. Yes.

8

Q. How many members from Houlihan

9

were working in that time period,

10

prepetition?

11

A. Five or six.

12

Q. Can you give us the names?

13

A. Eric Siegert, Matt Niemann,

14

Jeffrey Lewis, myself, Ben Ilhardt, Frank

15

Karl.

16

Q. Were you preparing time sheets

17

in connection with your work on this

18

matter?

19

A. No. We don't --

20

Q. You don't --

21

A. Houlihan, we don't do time

22

sheets there.

23

Q. Do you know roughly how many

24

hours Houlihan spent in connection with

25

this engagement prior to the petition

1

SNELLENBARGER

2

date?

3

A. I don't. It's not something we

4

track. We are paid a flat monthly fee so

5

we don't track our hours.

6

Q. During the April-May time

7

period, is it fair to say, at least for

8

you, that this matter took up most of your

9

time?

10

A. I believe so, yes.

11

Q. Would you say you were working

12

40, 50 hours in that time period?

13

A. Maybe. It's hard to say but I

14

mean, yeah, it was a significant amount of

15

time.

16

Q. And would you say the same for

17

the other members of your team?

18

A. Varying degrees.

19

Q. In that time period, April to

20

May your team was working anywhere from

21

40 to -- more than 40 hours a week on this

22

matter?

23

MR. RENENGER: Object to the

24

form of the question.

25

Q. Well, let me break it up. If

1

SNELLENBARGER

2

you could just review. I assume you were

3

one of the busiest people on the

4

engagement?

5

A. Correct.

6

Q. Who was the next busiest person?

7

A. Probably Jeffery Lewis.

8

Q. Roughly how much time was Mr.

9

Lewis spending --

10

A. Probably the same amount of time

11

as me or more, same as Ben Ilhardt and

12

Frank Karl. The more senior people on the

13

deal, Matt Niemann and Eric, were involved

14

but not on a day-to-day basis.

15

Q. In that time period, were you

16

working late hours?

17

A. At times.

18

Q. Were the other members of your

19

team also working late hours?

20

A. Yes.

21

Q. In many instances you worked

22

past 9:00?

23

MR. RENENGER: Object to the

24

form of the question.

25

A. Yes.

1 SNELLENBARGER

2 Q. Seeing e-mails produced, in
3 fact, that there were e-mails exchanged at
4 1:00 in the morning, 2:00 in the morning.

5 A. Yes. Unfortunately, I recall
6 those nights.

7 Q. That was not infrequent?

8 A. No.

9 Q. And this engagement was
10 obviously a very important engagement to
11 Houlihan?

12 MR. RENENGER: Object to the
13 form of the question.

14 Q. Let me rephrase it. Was this an
15 important engagement to Houlihan?

16 MR. RENENGER: Object to the
17 form of the question.

18 A. Well, they are all important
19 engagements. But, yes.

20 Q. And Houlihan devoted its full
21 attention to the engagement?

22 A. Correct.

23 Q. And no one at the company or,
24 I'm sorry, no one within the ad hoc group
25 has ever questioned the quality of

1

SNELLENBARGER

2

Houlihan's work during that time period?

3

MR. RENENGER: Object to the

4

form of the question.

5

A. I don't believe so.

6

Q. And you had a number of calls

7

with Centerview during this time period,

8

April-May?

9

A. Yes.

10

Q. And you had a number of calls

11

with FTI as well in that time period?

12

A. Yes.

13

Q. At any point during those calls

14

or at any point in that time period, did

15

you raise with either Centerpoint (sic),

16

FTI or any of the company's

17

representatives that you did not receive

18

adequate information?

19

A. Yes.

20

Q. And did you at any point in that

21

time period, April or May, specifically

22

raise that you were not provided enough

23

information on the intercompany balances?

24

A. I believe so. Yes, is the

25

answer.

1 SNELLENBARGER

2 Q. Are you aware of any writing
3 that reflects your raising with the
4 company or any of the company's
5 representatives that you were not provided
6 enough information regarding the
7 intercompany balances?

8 A. I don't recall.

9 Q. Do you recall any point in time
10 in April or May that you or anyone at
11 Houlihan raised that you were not provided
12 enough information about the RMBS claims?

13 A. Yes.

14 Q. And do you recall if that issue
15 was raised in writing?

16 A. I just don't recall.

17 Q. In preparing for today's
18 deposition, did you review any writings,
19 e-mails, notes, which reflected that you
20 had raised concerns about intercompany
21 claims or the RMBS claims with any of the
22 debtors' representatives?

23 MR. RENENGER: Again, April-May
24 time period.

25 Q. April-May time period.

1 SNELLENBARGER

2 A. No.

3 Q. Did you keep notes of your work
4 in this time period?

5 A. I'm not a great note taker so I
6 wouldn't have anything that I could refer
7 back to, no.

8 Q. Did you retain the e-mails from
9 this time period?

10 A. Yes.

11 Q. At one point in time were you
12 instructed to keep all of your e-mails?

13 A. Yes.

14 Q. What point in time was that?

15 A. I think when this litigation
16 first began, as a matter, I think Houlihan
17 because of the investment bank we are we
18 have to retain all of our e-mails anyway
19 so they are always kept. But pursuant to
20 this situation when the litigation began,
21 whenever, several months ago.

22 Q. You are not aware of any e-mail
23 that you either sent or received in the
24 April or May 2012 time period that's been
25 destroyed?

1 SNELLENBARGER

2 A. No.

3 Q. And in connection with the
4 document requests that we have served in
5 the case you've provided your e-mails to
6 counsel for that time period?

7 MR. RENENGER: Object to the
8 form of the question.

9 A. Pursuant to what protocol was
10 agreed to, we complied to that.

11 Q. Was anyone at Houlihan or anyone
12 within the ad hoc group aware prior to the
13 petition date that certain ResCap
14 subsidiaries had forgiven liabilities owed
15 to other ResCap subsidiaries?

16 A. I don't recall if we were aware
17 of that or not.

18 Q. You are aware that that has
19 happened?

20 A. I am now.

21 Q. Historically, prior to the
22 petition date, certain ResCap entities
23 have forgiven intercompany balances that
24 were owed to other ResCap subsidiaries?

25 A. I'm aware of that now. That

Plaintiff's Objection
269:21-270:6
Beyond the scope of
affirmative testimony;
incomplete (FRE 106)

1 SNELLENBARGER

2 that occurred.

3 Q. When was the first time you were
4 aware of that fact?

5 A. Not that long ago. Maybe the
6 last few months.

7 Q. Certainly prepetition you were
8 aware that Ally had forgiven certain --
9 certain amounts owed to ResCap, correct?

10 A. Correct.

11 MR. RENENGER: Object to the
12 form of the question. Do you mean
13 Ally had forgiven amounts owed to
14 ResCap or?

15 Q. Well, let me ask it more
16 broadly. You are aware, prior to
17 petition, that prior to the petition date,
18 Ally and ResCap had certain amounts owed
19 and owing, correct?

20 A. Between Ally and ResCap?

21 Q. Yes.

22 A. Yes.

23 Q. And you are aware that Ally had
24 forgiven certain of those amounts?

25 A. Yes.

Plaintiff's Objection
270:15-25
Beyond the scope of
affirmative
testimony;
incomplete (FRE
106)

1 SNELLENBARGER

2 Q. And we talked about this before
3 the lunch break. You were also aware that
4 ResCap had a number of subsidiaries, you
5 are aware of that fact, prior to the
6 petition date?

7 A. Correct.

8 Q. And you're aware based on your
9 experience in this field and in investment
10 banking that companies with a large number
11 of subsidiaries often have intercompany
12 balances owed between those subsidiaries?

13 A. Correct.

14 Q. It's a well-known fact that when
15 you have a large company like this, there
16 will be amounts transferred from one
17 company to the other within the parent
18 organization?

19 MR. RENENGER: Object to the
20 form of the question.

21 A. Each have their different
22 issues, but as a general matter, yes.

23 Q. And you are aware that the
24 balances owed generally between companies
25 within one corporation could represent

1 SNELLENBARGER

2 collateral for certain liabilities?

3 MR. RENENGER: Object to the
4 form of the question.

5 A. Yes.

6 Q. Do you recall any time prior to
7 petition date discussing with any of the
8 noteholders, your clients, that they were
9 entitled to collateral that, the
10 collateral that was the intercompany
11 balances?

12 MR. RENENGER: I'm going to
13 again instruct the witness that to the
14 extent he can answer that question
15 without revealing privileged
16 conversations or work done at the
17 direction of counsel, then he can
18 answer that.

19 A. Can you repeat the question?

20 Q. Let me rephrase the question.

21 A. Okay.

22 Q. We looked at a presentation that
23 Houlihan prepared in 2012 that reflected
24 the analysis that was included in the
25 presentation, did not include intercompany

1 SNELLENBARGER

2 balances, correct? Do you recall that
3 document? It's the May 2012 presentation,
4 I believe it's Exhibit 18.

5 A. I believe there's a comment in
6 there about intercompanies.

7 Q. Are you looking at 18?

8 A. Yes.

9 Q. It's page 22 of that document,
10 2234.

11 A. Okay, I see it. Can you repeat
12 the question?

13 Q. So at least as a subject matter
14 you are aware that there were intercompany
15 balances that could be, could represent
16 collateral for the JSNs?

17 A. Yes.

18 Q. And the question I'm asking is
19 did you have discussions with your clients
20 prepetition about those intercompany
21 balances? Just generally.

22 A. Yes.

23 Q. And did you have discussions
24 that certain of those intercompany
25 balances could have been forgiven,

1 SNELLENBARGER

2 prepetition, discussions with your clients
3 prepetition about whether certain of those
4 intercompany balances were forgiven,
5 historically forgiven between
6 subsidiaries?

7 MR. RENENGER: I'm going to
8 object and tell the witness it's a yes
9 or no question.

10 A. Not that I recall.

11 Q. But you are aware from your
12 experience in this field and obviously in
13 all the other engagements that you worked
14 on that large companies with many
15 subsidiaries have intercompany balances
16 and those intercompany balances are often
17 forgiven?

18 MR. RENENGER: Object to the
19 form of the question.

20 Q. Let me rephrase it.

21 That large companies, based on
22 your experience, you were aware that large
23 companies that had multiple subsidiaries
24 were subsidiaries owed certain amounts
25 amongst those subsidiaries, it was not

Plaintiff's Objection
274:21-275:13
Beyond the scope of
affirmative testimony;
incomplete (FRE 106)

1

SNELLENBARGER

2

uncommon for a subsidiary to forgive those

3

debts?

4

A. I don't know if I would say

5

that. I mean, I don't think you can make

6

a broad assertion with respect to

7

intercompany claims. I think each

8

individual company and each individual

9

case is distinct and had to be evaluated,

10

you know, based on that. Maybe some

11

companies do that, maybe some companies

12

didn't. I don't know as a general matter

13

if you can make a broad conclusion.

14

Q. Let me narrow the question. Are

15

you aware at least some companies, in

16

fact, allowed subsidiaries to forgive debt

17

owed to other subsidiaries?

18

MR. RENENGER: Just as a general

19

matter?

20

Q. Yes. Based on your experience

21

working in this field and working other

22

engagements, are you aware that companies

23

forgave debts owed among subsidiaries?

24

A. It can happen. But again, it's

25

really depending on the individual

1 SNELLENBARGER

2 situation.

3 Q. Not only that it can happen, you
4 are aware that it had happened at other
5 companies at another engagements prior to
6 this engagement?

7 A. Not engagements I have been
8 involved in personally. So I can't really
9 speak to that.

10 Q. Were you aware generally that
11 companies, prior to a position date, prior
12 to this engagement, were you aware that,
13 of any instance where a company had
14 forgiven debts owed between subsidiaries?

15 A. As a general matter, maybe. I
16 mean, it's difficult for me to -- my
17 particular specific engagements, no. So
18 did it happen in other situations, I can't
19 really speak to.

20 Q. Have you had an engagement where
21 the value of the intercompany claims
22 represented the collateral for a client?

23 MR. RENENGER: Object to the
24 form of the question.

25 Q. Or for any holder of security

1 SNELLENBARGER

2 interests?

3 MR. RENENGER: Object to the
4 form of the question.

5 A. I just don't remember.

6 Q. Are you aware of any Houlihan
7 engagement where either the client or the
8 company at issue had intercompany balances
9 that represented collateral for a secured
10 interest?

11 A. I don't know specifically.

12 MR. RENENGER: Object to the
13 form of the question.

14 A. I don't know specifically. I'm
15 sure we had. I mean, we do a variety of
16 different restructuring transactions all
17 over the place. I'm sure we've dealt with
18 that situation.

19 Q. Can you name a few?

20 MR. RENENGER: Again, object to
21 the form of the question.

22 A. Again, it's not my involvement
23 so it would be difficult for me to know
24 whether they were or not. I don't know if
25 I can answer that.

1 SNELLENBARGER

2 Q. Is this the first time in your
3 experience where the engagement exchange
4 of e-mails from May 8th with Mr. Chopra
5 from Centerview involved claims for
6 intercompany balances as collateral? Is
7 this the first time you've seen that?

8 A. As collateral. Likely. I'm
9 just thinking. I have had a lot of
10 different cases. So it's hard for me to
11 remember. We have dealt with intercompany
12 balances before. I just can't remember
13 whether they were collateral or not
14 collateral to certain creditors in my
15 prior engagements.

16 Q. Just referring generally back to
17 Exhibit 20, the Houlihan engagement
18 letter. Am I correct that part of the
19 engagement that Houlihan was retained for
20 by the ad hoc group was to perform an
21 independent analysis of the information
22 provided by debtors in connection with JSN
23 recoveries?

24 MR. RENENGER: Object to the
25 form of the question.

1 SNELLENBARGER

2 A. It was certainly our goal.

3 Q. Let me rephrase the question.

4 You see that the scope of the engagement
5 is described in the first paragraph of the
6 engagement letter?

7 A. Yes.

8 Q. And you see that a number of the
9 tasks that are included in the scope of
10 the engagement involve review and
11 analysis?

12 A. Yes.

13 Q. Is it fair to say that with
14 respect to each of these tasks, Houlihan
15 performed an independent analysis?

279:13 – 23, FRE 611(a)
(Vague and ambiguous)

16 MR. RENENGER: Object to the
17 form of the question.

18 MR. WALSH: Can you explain why
19 that's objectionable?

20 MR. RENENGER: Yeah. I don't
21 know what you mean by independent
22 analysis. Independent of what? It's
23 vague.

24 Q. Is it fair to say,
25 Mr. Snellenbarger, that Houlihan performed

1

SNELLENBARGER

2

its own analysis with respect to each of

3

the items that are listed in the scope of

4

engagement?

5

A. I don't know if I can say that.

6

I mean, we certainly, as I said before, it

7

was our intent and goal to do that. We

8

had some information of the company, we

9

didn't have all the information. So it

10

was difficult to do a complete independent

11

analysis. When we put our information

12

together in the presentations, we had to

13

rely on a lot of the debtors' information

14

and analysis. We didn't have all the

15

information opportunity to evaluate

16

everything on its own merits

17

independently.

18

Q. What was Houlihan being paid to

19

do?

20

A. To review as much information as

21

possible for the debtors, summarize it for

22

the ad hoc group and give our thoughts on

23

that information and, you know, how to

24

provide advice with respect to whatever

25

issues arise.

1

SNELLENBARGER

2

Q. And did Houlihan provide its own

3

thoughts on the information that was

4

provided by the debtors?

5

A. Yes.

6

Q. And did Houlihan perform its own

7

analysis of the information provided by

8

the debtors?

9

A. We provided as much analysis as

10

we could given the information that was

11

provided to us.

12

Q. And at any point did the clients

13

question whether Houlihan had performed

14

its own analysis?

15

A. I think the clients understood

16

the limitations of our analysis given the

17

information that was provided.

18

Q. And were there discussions

19

between Houlihan and the clients regarding

20

those limitations?

21

A. Yes.

22

Q. And at any point did you tell

23

the clients not to proceed with the PSA

24

based on the limitations of information

25

that you were provided?

1

SNELLENBARGER

2

A. I think that's privileged. I

3

don't think I can answer that.

4

Q. You are not going to answer that

5

question?

6

A. No.

7

(AHG Exhibit 21, exchange of

8

e-mails from May 8th with Mr. Chopra

9

from Centerview, marked for

10

identification, as of this date.)

11

Q. Mr. Snellenbarger, this is

12

Exhibit 21. It's an exchange of e-mails

13

from May 8th with Mr. Chopra from

14

Centerview. And you see that these are

15

two e-mails that you sent, correct?

16

A. Yes.

17

Q. What did you provide to

18

Mr. Chopra by these e-mails?

19

A. It looks like a simple waterfall

20

schedule that summarizes the secured

21

recovery of the JSNs.

22

Q. Did you prepare this summary?

23

A. Houlihan did.

24

Q. Houlihan. And did you have any

25

input in the summary?

1 SNELLENBARGER

2 A. I believe so. This was, I think
3 it's a -- basically we put this together
4 based on these, the inputs, the substance
5 that the debtors gave us and we were
6 putting in the waterfall and saying, look,
7 based on the assumptions you gave us and
8 the waterfall we agreed to, does this look
9 like what the outcome should be.

10 Q. I am sorry, I'm looking at the
11 e-mail, Mr. Snellenbarger. It says, "Take
12 a look at this simple asset recovery
13 spreadsheet and let me know if you agree
14 with our assumptions." These are your
15 assumptions, correct?

16 A. Well, okay, it says our
17 assumptions, but these were the
18 assumptions based on the discussions we
19 had had with the company. And so we put
20 them in a spreadsheet and I said let me
21 know if you agree with this.

22 Q. What are the assumptions?

23 A. The assumptions are the value of
24 the sold assets. The amount of cash on
25 hand. The value of the unsold assets.

1

SNELLENBARGER

2

The amount of derivative cash. The value

3

for the equity pledges. And the

4

assumptions up above, the claim amounts,

5

the Ally revolver of the junior secured

6

notes.

7

Q. You point out to Mr. Chopra to

8

focus on the revised as of May 8th, 2012

9

line. What are you referring to there?

10

A. I think I'm just telling him to

11

focus on the inputs and the value of the

12

assets. I mean, the claim assumptions at

13

the top are public.

14

Q. This is information that

15

Houlihan revised?

16

A. They were revised based on

17

discussions with the debtors. As I said

18

before, these schedules of what our assets

19

were and weren't were continually moving

20

around. So we would continue to get

21

updates from the debtors and so based --

22

for the revised version based on that

23

update we then sent it to Centerview and

24

said take a look at it. Do you agree with

25

this.

1 SNELLENBARGER

2 Q. And you write, "Let me know if
3 you agree with our assumptions," correct?

4 A. Yes. And again, they were
5 assumptions based our discussions with the
6 debtors.

7 Q. And did you say that to
8 Mr. Chopra in your e-mail, these
9 assumptions are based on the information
10 you provided?

11 A. The words are not here, no.

12 Q. Did you perform any independent
13 analysis, when I say independent I mean
14 Houlihan by itself performing the
15 analysis, of the information that the
16 debtors provided regarding the collateral?

17 A. Prepetition?

18 Q. Prepetition.

19 A. We did not -- Houlihan did not
20 arrive at any independent conclusions of
21 our collateral value. We utilized the
22 debtors' numbers and their assumptions and
23 then showed you can sensitize those
24 assumptions, show a range of recoveries
25 based those debtors' numbers to give the

1

SNELLENBARGER

2

ad hoc group a view of what the debtors'

3

view of our potential recovery was.

4

Again, we had limited information and time

5

to do a full blown bottoms-up analysis.

6

That's what our experts ultimately did a

7

year later. This is the best we could do

8

given the time we had and our ad hoc group

9

understood that.

10

Q. Did you inform the debtors that

11

you had did not have sufficient

12

information or time to complete an

13

analysis?

14

A. Yes.

15

Q. Is that reflected in any

16

writing?

17

A. I don't recall.

18

Q. Did Houlihan provide a

19

recommendation to the junior secured

20

noteholders regarding what their recovery

21

would be under the prepetition PSA?

22

MR. RENENGER: I'm just going to

23

instruct the witness and remind him

24

that's a yes or no question. Anything

25

beyond that could get into privileged

1 SNELLENBARGER

2 areas so keep that in mind, please.

3 A. So could you repeat the
4 question.

5 Q. Did Houlihan provide a
6 recommendation to the junior secured
7 noteholders regarding the recoveries under
8 the prepetition PSA? This is prior to the
9 signing of the prepetition PSA.

10 A. Yes.

11 Q. What was that recommendation?

12 A. I think that's privileged. I
13 don't think I can answer that.

14 Q. I'm not sure which exhibit
15 number it is. But it's the third quarter
16 2011 presentation. Exhibit 9. Would you
17 take a look at that.

18 A. I got it.

19 Q. That's not the one I was looking
20 for.

21 MR. RENENGER: 19. Just
22 guessing where he's going.

23 MR. WALSH: Well, it's actually
24 18. Close.

25 Q. If you turn to page 6 of 18,

1 SNELLENBARGER

2 it's Bates stamped AHG 4696.

3 A. I'm sorry, what's the page
4 again?

5 Q. 4696. Page 6 of the document.

6 A. 4696?

7 Q. Right. It's Legal Entity
8 Overview.

9 A. Got it.

10 Q. We talked earlier about public
11 information that you had obtained
12 regarding the family structure of the
13 ResCap entities, the legal entities. Does
14 this refresh your recollection that you
15 had had that information prior to the --
16 prior to the petition date?

17 A. Yes.

18 Q. And it's your understanding that
19 the information was publicly available?

20 A. Yes. I'm not sure if this
21 particular chart was public or not. There
22 may be more detail here that was private
23 originally but we did have that public
24 chart that we had shown.

25 Q. You can put that aside.

1 SNELLENBARGER

2 MR. WALSH: 22.

3 (AHG Exhibit 22, series of
4 e-mails between Dennis Prieto and a
5 number of other people, marked for
6 identification, as of this date.)

7 Q. 22 is a series of e-mails
8 between Dennis Prieto and a number of
9 other people, including yourself,
10 Mr. Snellenbarger. Do you recall this
11 correspondence?

12 A. I do.

13 Q. And did you know Mr. Prieto
14 prior to the ResCap engagement?

15 A. I did not.

16 Q. Did you know anyone at Aurelius?

17 A. I personally did not know.

18 Q. Did the company Houlihan?

19 A. I believe so. I believe they
20 dealt with them on other engagements.

21 Q. Had Houlihan worked for Aurelius
22 on other engagements?

23 A. I think so maybe. I think may
24 have been on a committee or two that
25 Houlihan was advising or had advised

1 SNELLENBARGER

2 previously.

3 Q. If you go to the very last page,
4 there's an e-mail from Dan Gropper from
5 Aurelius?

6 A. Yes, I see it.

7 Q. And you see that Mr. Gropper is
8 trying to get an introduction to you.

9 A. I see it.

10 Q. And ultimately he did make an
11 introduction to you, right? You
12 eventually caught up with each other?

13 A. Correct.

14 Q. And what did Mr. Gropper want to
15 talk to you about?

16 A. He wanted to, I think at that
17 time they had bought some junior secured
18 bonds and let us know that they were
19 holders. And they had, on a public basis
20 had some thoughts about the value of
21 the -- available for the junior secured
22 noteholders and wanted to understand a
23 little better the PSA agreement that the
24 ad hoc group had entered into.

25 Q. Did you have a meeting with

1 SNELLENBARGER

2 Mr. Gropper or anyone else at Aurelius
3 around this time period?

4 A. We had some phone calls first.
5 I think we met with them ultimately in
6 July, I believe.

7 Q. The e-mails are, I know there's
8 a number of different e-mails, but the
9 first series of e-mails are from May and
10 earlier, May 15th, which I believe is --

11 A. The day after the --

12 Q. -- the day after the petition,
13 right. Do you know if you spoke to anyone
14 at Aurelius in May?

15 A. I think I only spoke to them
16 after the filing. So yes, in May but I
17 think after the filing.

18 Q. If you -- right. I'm focused on
19 the May 15th date. If you look at the
20 page ending 8871.

21 A. Right.

22 Q. It looks like you and Mr. Prieto
23 catch up on May 15th?

24 A. Yes.

25 MR. RENENGER: 8771 just to

1 SNELLENBARGER

2 clarify.

3 MR. WALSH: Yes, thank you.

4 Q. What did you and Mr. Prieto talk
5 about on that phone call?

6 A. This same discussion of
7 Aurelius, I think, had bought some junior
8 secured note bonds and were holders and
9 they wanted to understand in parallel with
10 the filing, I think the PSA had been
11 filed. I think that had been made public
12 so they wanted to understand what it was,
13 what the ad hoc group agreed to, et
14 cetera.

15 Q. And did you provide that
16 information to him?

17 A. Whatever was publicly available
18 we discussed.

19 Q. We looked at the three-page
20 document reflecting recoveries of JSNs
21 that was publicly filed. Did you share
22 any information that was in that document
23 with anyone from Aurelius in May?

24 A. It was already public at that
25 point so they had it, so I didn't have to

1 SNELLENBARGER

2 share it with them.

3 Q. Was that one of the things you
4 discussed on the phone call?

5 A. It may have been, yeah.

6 Q. Did Mr. Prieto raise the issue
7 of whether the JSNs had a collateral
8 interest in intercompany balances on that
9 phone call?

10 A. That phone call I don't know. I
11 just don't remember whether it was that
12 phone call or not.

13 Q. We will get to the later phone
14 call. So at some point you did have
15 discussions with Aurelius about
16 intercompany balances, correct?

17 A. Correct.

18 Q. Did you have an understanding
19 why Mr. Prieto was reaching out to you as
20 opposed to someone in the JSN group?

21 MR. RENENGER: Object to the
22 form of the question.

23 Q. If you know. Why was he
24 reaching out to Houlihan rather than to
25 individual noteholders?

1 SNELLENBARGER

2 A. I assume because we were the
3 financial advisor to the holder and
4 probably had done more diligence, even on
5 a public basis, than individual holders.
6 I can't say. He may have had other
7 discussions with individual holders, I
8 don't know.

9 Q. Did you share with Mr. Prieto
10 any nonpublic information?

11 A. No.

12 Q. Did you discuss the RMBS
13 contingent liabilities on that phone call?

14 A. I don't remember. I think the
15 RMBS proposed settlement was made public I
16 think around the same time as the filing
17 so it was out there. So we may have
18 talked -- we may have talked about it.

19 Q. Did you discuss with him whether
20 those liabilities, those claims, would be
21 subordinated in the bankruptcy?

22 A. I don't believe so on that call.

23 Q. Did you review the RMBS PSA when
24 it came out?

25 A. Yes.

1 SNELLENBARGER

2 Q. And did you understand that PSA
3 did not provide for subordination of those
4 claims?

5 A. Yes.

6 Q. If you turn to the first page,
7 Mr. Prieto has latched on to -- has
8 followed up on the May correspondence with
9 a new e-mail dated June 21, 2012. And he
10 writes, "Reid, we are in the process of
11 drafting a letter to the ad hoc group
12 expressing the view that the junior
13 secured settlement could be dramatically
14 improved."

15 Did you on June 21st or
16 thereabouts have a discussion with
17 Mr. Prieto about that issue?

18 A. I believe so, yes.

19 Q. What was the discussion?

20 A. They basically said that they
21 wanted to highlight several issues and
22 areas of value that they thought were
23 important to the JSNs. And that their
24 belief that they were, the junior secureds
25 were significantly oversecured. And that

1

SNELLENBARGER

2

they were concerned that the PSA had

3

forgone six months of post petition

4

interest unnecessarily.

5

Q. Did you disagree with the view

6

that the JSNs were oversecured at that

7

time? This is June 2012.

8

A. No. What I said, I said his --

9

the points that he raised we were aware

10

of, we had considered. But there were

11

other considerations that factored into

12

the group agreeing to the PSA.

13

Q. What were those considerations?

14

A. Speed and certainty. The

15

bargain that the ad hoc group was making

16

was that, even if they ultimately were

17

oversecured or not, I think they were

18

willing to waive 6 or 7 months of post

19

petition interest if they could get paid

20

out before the end of the year. That is

21

really what they were doing. And get

22

their full claim paid out. So that was

23

really what, you know, what that group

24

kind of hung their hat on.

25

Q. And you understand that in

1 SNELLENBARGER

2 connection with the prepetition PSA the ad
3 hoc group had also waived their rights to
4 certain intercompany balances?

5 A. I don't know. I don't recall
6 that.

7 Q. Do you recall that at least with
8 respect to the RFC intercompany balances
9 those intercompany balances would be
10 waived in the prepetition PSA?

11 A. Well, actually I do recall that
12 was actually a mistake in the drafting and
13 that White & Case had then reached out to
14 MoFo to correct that drafting and had
15 alerted MoFo that they had a problem
16 there, that waivers shouldn't be applied
17 because we weren't waiving any of the
18 intercompany claims amongst any of the
19 entities.

20 Q. When did that happen?

21 A. Subsequent to the filing of the
22 PSA.

23 Q. Had White & Case reviewed the
24 term sheet prior to the signing of the
25 PSA?

1 SNELLENBARGER

2 A. I don't believe so.

3 Q. That error was in the
4 prepetition PSA term sheet?

5 A. It was. There were a lot of
6 documents flying around, people working
7 late trying to get everything done. So it
8 was just missed and White & Case alerted
9 MoFo of that fact.

10 Q. With respect to the discussion
11 with Mr. Prieto in June, did he provide
12 you with a draft of the letter that he
13 ultimately sent or that was sent to
14 noteholders on June 26th?

15 A. You know, I can't remember if he
16 sent us a draft ahead of time or not. He
17 may have. I just -- I honestly don't
18 recall. I know we talked about the
19 substance of it. But whether he sent me a
20 draft ahead of time I just can't remember.

21 Q. While we are getting the letter,
22 you see at the top of this page Mr. Prieto
23 asks you for the e-mail addresses for
24 Alliance, Loomis and CQS. Did you provide
25 those e-mail addresses to him?

1 SNELLENBARGER

2 A. I can't remember if we did. You
3 know, ultimately, I don't think we needed
4 to because they actually tracked them down
5 themselves I think. We may have, I just
6 don't remember.

7 (AHG Exhibit 23, June 26th
8 e-mail from Dennis Prieto to a number
9 of people, marked for identification,
10 as of this date.)

11 Q. Exhibit 23 is June 26th e-mail
12 from Dennis Prieto to a number of people,
13 including yourself, Mr. Snellenbarger. It
14 attaches a letter from Mr. Brodsky of
15 Aurelius. You are familiar with this?

16 A. I am.

17 Q. Does this refresh your
18 recollection whether you saw a draft of
19 this before it was sent?

20 A. I just don't remember. I
21 remember -- I obviously remember the
22 letter and I just don't know if we had a
23 copy of it before or not.

24 Q. But at least with respect to
25 some of the issues in the letter, you had

1 SNELLENBARGER

2 a discussion with Mr. Prieto on those
3 issues before the letter was sent?

4 A. Yes.

5 Q. Could you review the letter and
6 tell me which issues you discussed with
7 him?

8 A. I think it primarily revolved
9 around the incremental value and the sale
10 process. We talked about intercompany
11 claims.

12 Q. Let me stop you there. What
13 were your discussions on the intercompany
14 claims?

15 A. I think by then the debtors had
16 filed their schedules and so forth and the
17 intercompany claim balances were public.
18 And I think they thought that those would
19 have significant value in a plan.

20 Q. If you look at the paragraph on
21 intercompany claims, Mr. Brodsky refers to
22 the last ResCap consolidated financials
23 from 2009. Do you know what he's
24 referring to there?

25 A. Yeah. I believe historically

1 SNELLENBARGER

2 several years ago ResCap had provided more
3 detailed financials in public. And they
4 had actually on a public basis had shown
5 financials by legal entity. And in those
6 legal entities there were certain
7 intercompany balances shown. So this
8 refers to that. So maybe the schedules
9 hadn't been filed by then. I don't know.

10 Q. We will look at a separate
11 letter which was sent after that schedule.

12 A. Maybe that's what it was
13 referring to. But that's the answer to
14 your question, I think.

15 Q. Had Houlihan reviewed those 2009
16 financial statements in connection with
17 his work for the ad hoc group prior to the
18 petition date?

19 A. No. Because we had updated
20 information on a private basis. So we had
21 more recent information that showed that
22 consolidated information so we didn't need
23 to look at the '09 one.

24 Q. You had information on
25 intercompany balances prior to the

1 SNELLENBARGER

2 petition date?

3 A. Yes, to the trial balance.

4 Q. What were the issues that
5 Mr. Prieto raised with you on the sale
6 process?

7 A. He just said that the stalking
8 horse bids -- that there's a lot of future
9 opportunity for the values to increase.
10 The stalking horse bids have already
11 increased by 175 million. That, you know,
12 it was thought there was a lot of -- you
13 know, there could be potential upside in
14 the value of that, and you know, higher
15 bids would enhance our collateral and our
16 recovery.

17 Q. If you turn to the first page of
18 the letter. Mr. Brodsky refers to a
19 May 14, 2012, presentation. Is that the
20 Houlihan presentation that we looked at
21 previously?

22 MR. RENENGER: Object to the
23 form of the question.

24 Q. What's the document, what
25 document is he referring to there if you

1 SNELLENBARGER

2 know?

3 A. I believe he's referring to the
4 public document that was issued, three
5 pager.

6 Q. That we looked at previously?

7 A. Yes.

8 Q. Exhibit 19?

9 A. Yes.

10 Q. You see on page 2 that
11 Mr. Brodsky has identified that the
12 intercompany claims are not included in
13 the presentation, that's correct? They
14 were not included in the presentation?

15 A. That's correct.

16 Q. He also on the third page
17 identifies collateral related to the Ally
18 contribution that is not counted in the
19 presentation. Do you see that?

20 A. Yes.

21 Q. What is he referring to there?

22 A. I think what he is referring to
23 is he's saying that a portion of the 750
24 million -- he's asserting that the JSNs
25 perhaps had a lien on a certain portion of

1 SNELLENBARGER

2 the \$750 million, that that should be
3 counted in the secured recovery as opposed
4 to part of any unsecured recovery.

5 Q. Was Houlihan aware of that fact
6 prior to the petition date?

7 MR. RENENGER: Object to the
8 form of the question.

9 A. That?

10 Q. That there was the potential
11 that the JSNs had collateral on certain
12 causes of action against Ally? Was that
13 discussed or was that something that
14 Houlihan knew prior to the petition date?

15 A. Yes.

16 Q. Was that discussed with the JSNs
17 that were your clients prior to the
18 petition date?

19 MR. RENENGER: I'm going to
20 object to the question to the extent
21 it calls for privileged information.
22 To the extent that you had
23 nonprivileged discussions with members
24 of the ad hoc group on that subject,
25 you can answer.

1 SNELLENBARGER

2 Q. I'm just asking for a yes-no
3 question. The subject, the subject matter
4 being the potential that the JSNs had a
5 collateral interest on causes of action of
6 actions against Ally. Was that subject
7 matter discussed between Houlihan and your
8 JSN clients prior to the petition date?

9 A. Yes.

10 Q. Do you recall how many times
11 that was discussed?

12 A. No.

13 Q. More than once?

14 A. I think it was discussed part of
15 our settlement discussions.

16 Q. Discussed prior to the
17 settlement?

18 A. No. I think it was during.

19 Q. And was it a discussion that
20 occurred with the debtor or debtors'
21 representatives?

22 A. With the ad hoc group in
23 presence? I mean --

24 Q. Let me reframe the question.
25 You had a number of discussions with the

1 SNELLENBARGER

2 advisors to ResCap and I assume also with
3 ResCap personnel?

4 A. Yes.

5 Q. Was the issue of whether the
6 JSNs had a collateral interest in causes
7 of action of actions against Ally
8 discussed at those meetings, phone calls?

9 A. Between advisors?

10 Q. Yes.

11 A. I believe so.

12 Q. How many times?

13 A. I couldn't recall. The issue
14 was raised. How many times, I couldn't --
15 I don't know.

16 Q. Same question with respect to
17 internal discussions, internal with
18 respect to Houlihan and the ad hoc group.
19 Were the discussions, prior to the
20 petition date, between Houlihan and the ad
21 hoc group regarding whether the JSNs had a
22 collateral interest in the causes of
23 action against Ally?

24 MR. RENENGER: Object to the
25 form of the question.

1 SNELLENBARGER

2 Q. Were there discussions prior to
3 the petition?

4 MR. RENENGER: I heard it the
5 same way she wrote it actually.

6 Q. Were there discussions between
7 Houlihan and the clients, the JSN clients
8 regarding whether the JSNs had a security
9 interest, a collateral interest in causes
10 of action against Ally?

11 MR. RENENGER: Object to the
12 form of the question as asked and
13 answered. Yes or no question.

14 A. Yes.

15 Q. There were discussions. Did you
16 have -- let me ask more broadly. Did
17 Houlihan have discussions with the ad hoc
18 members that were Houlihan's clients about
19 the Brodsky letter at or around the time
20 of the Brodsky letter? This is the
21 June 26th letter that's 23?

22 A. Yes.

23 Q. How many discussions?

24 A. A few. I mean it was made
25 public. It was sent to them. They

1 SNELLENBARGER

2 called. Asked questions.

3 (AHG Exhibit 24, e-mail chain,
4 marked for identification, as of this
5 date.)

6 (AHG Exhibit 25, e-mail chain,
7 marked for identification, as of this
8 date.)

9 Q. Mr. Snellenbarger, I have handed
10 you Exhibits 24 and 25. 24 is an e-mail
11 from July 3rd. The last e-mail dated July
12 3rd, 9:39 a.m. from Liz Park from FTI.
13 You see your colleague Ben Ilhardt is
14 copied on these e-mails?

15 A. Yes.

16 Q. You see that Ms. Park has
17 provided to Jeff Lewis and Ben Ilhardt the
18 top ten intercompany schedule?

19 A. Yes.

20 Q. Had Houlihan received this
21 document prior to this date?

22 A. No.

23 Q. Houlihan was aware, though, that
24 in late June the debtor had filed its
25 schedules that included information on the

1

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2

intercompany balances, correct?

3

A. Correct.

4

Q. Did Houlihan do an analysis of

5

those schedules to determine the value of

6

the intercompany balances?

7

A. No.

8

Q. Do you know why FTI was

9

providing this to Houlihan on July 3rd?

10

A. Yeah. I mean, we had continued

11

to ask about the intercompany's balances.

12

We had looked at the schedules, saw the

13

balances there. I think they were trying

14

to provide a little more detail to us

15

about what those balances were and what it

16

contained, et cetera.

17

Q. Why were you asking for that

18

information?

19

A. To, you know, further refine our

20

recovery model to understand what the

21

potential outcomes may be with respect to

22

intercompanies. Again, like we discussed

23

previously, both sides built a recovery

24

model. Both sides included and developed

25

intercompany relationships as part of

1

SNELLENBARGER

2

those models. So we were trying to refine

3

that analysis to make it more accurate so

4

we had the right correct balances in

5

there. So that if we ran waterfalls, that

6

they would -- the output would be more

7

accurate, more refined.

8

Q. Take a look at Exhibit 25.

9

A. Okay.

10

Q. This is an e-mail from Dennis

11

Prieto, July 3rd as well, time 11:40 a.m.

12

He asks for a call with you on that day.

13

Did you talk to Mr. Prieto on July 3rd?

14

A. I may have, perhaps, yes.

15

Q. He writes he wants to discuss

16

planned next steps in light of the ResCap

17

schedules. What's your understanding of

18

that?

19

A. I think he wanted to, there's a

20

lot of information in this file much more

21

interface with the public. He wanted to

22

understand what our plan was to review and

23

go through them.

24

Q. Do you know if anyone at

25

Aurelius had performed their own analysis

1 SNELLENBARGER

2 of the intercompany schedules?

3 A. I know they had looked at the
4 intercompany balances and saw that there
5 were balances. You know, saw what the
6 balances were. I think they were trying
7 to develop again, their own, on a public
8 basis, their own recovery model.

9 Q. Did they perform their own
10 recovery mold, to your knowledge?

11 A. I think they were trying to kind
12 of develop what they thought the ranges of
13 outputs, what the intercompanies could
14 receive based on a variety of inputs. I
15 think they were trying to come up with
16 that range.

17 Q. He also asked about the footnote
18 3 to the presentation. If you turn back
19 to Exhibit 19, it's on page 2 Bates
20 stamped 3474. It's Exhibit 19 if you have
21 it handy.

22 A. Yeah. Okay.

23 Q. What was Mr. Prieto's question
24 about the 1.4 billion of other general
25 unsecured claims?

1 SNELLENBARGER

2 A. I think because the schedules
3 didn't have that high a number. The 14 in
4 the presentation on Exhibit 19 was the
5 estimate given to us by the debtors. And
6 then when they filed their schedules, the
7 statements, that number was significantly
8 less. So I think he was trying to
9 understand why there was a difference.

10 Q. Do you have an understanding why
11 there was a difference?

12 A. The debtors overestimated.

13 Q. What impact, if any, would that
14 have on junior secured recovery?

15 A. Only to the extent that we had
16 deficiency claims. Well, in two ways.
17 Whether -- if we were undersecured, it
18 would -- that there were less ducks,
19 general unsecured claims then the value of
20 our deficiency would be higher. Also with
21 respect to intercompany claims. If the
22 amount of general secured claims were
23 lower, those -- the value of intercompany
24 claims would be higher.

25 Q. In a sense this was good news,

1 SNELLENBARGER

2 they had overestimated?

3 A. Correct.

4 Q. You can put that aside.

5 (AHG Exhibit 26, July 5th, 2012

6 letter from Mr. Brodsky, marked for

7 identification, as of this date.)

8 Q. 26 is the July 5th, 2012 letter

9 from Mr. Brodsky to a number of people

10 including yourself, Mr. Snellenbarger.

11 Did you receive this letter on July 5th?

12 A. I did.

13 Q. Do you know if you saw a draft

14 of this letter before July 5th?

15 A. I don't recall.

16 Q. The letter includes a discussion

17 on the intercompany claims, correct?

18 A. Yes.

19 Q. Mr. Brodsky refers to the

20 schedules that were recently filed by the

21 ResCap debtors?

22 A. Yes.

23 Q. Those are the same schedules

24 that we have been discussing?

25 A. Correct.

1 SNELLENBARGER

2 Q. You see that Mr. Brodsky has --
3 well, someone as Aurelius has performed an
4 analysis of the collateral value of the
5 intercompany receivables, correct?

6 A. Yes.

7 Q. And he's calculated 64-72 bond
8 points of collateral value for those
9 intercompany claims. To the lawyers who
10 are laymen in room, what does that
11 represent, 64-72 bond points?

12 A. I think he's trying to say that
13 that could equal 64 to 72 percent of
14 amount of bonds or amount of recovery.

15 Q. It was a substantial amount?

16 A. Yes.

17 Q. Increased value?

18 A. Correct.

19 Q. Did you agree with that analysis
20 as of July 5th, 2012?

21 A. Aurelius had used -- in order to
22 determine a range of recoveries for the
23 intercompany claims, it involves a whole
24 host of different assumptions to be put in
25 to any analysis. Aurelius only had public

1 SNELLENBARGER

2 information. So they were trying to look
3 at it on a public basis. There was
4 limited information publicly. We had more
5 private information internally. Our
6 recovery output estimates on those
7 recoveries were probably more refined. We
8 thought it could be potentially
9 significant. Whether it was to that
10 magnitude, I'm not sure.

11 Q. Do you know if anyone at
12 Houlihan or Houlihan generally reached a
13 conclusion on the value of the
14 intercompany claims prepetition?

15 A. No.

16 Q. At some point though, at least
17 prior to July 5th, Houlihan had concluded
18 there was a value to those intercompany
19 claims, correct?

20 A. We never had did a valuation. I
21 just want to draw the distinction. The
22 intercompany -- we never looked at the
23 validity of the claims and whether this
24 intercompany claim was valid or this one
25 wasn't valid or whatever. We never did

1 SNELLENBARGER

2 that analysis. What we did was simply put
3 the balances as stated in our recovery
4 model and then made assumptions on asset
5 values and so forth, primarily, you know,
6 the substance given to us by the debtor
7 and different claim assumptions for other
8 creditors. You run that through a
9 waterfall model and out comes a, you know,
10 recovery estimate for those intercompany
11 claims.

12 So you can provide recovery
13 estimate ranges based those assumptions
14 but we didn't do a value, you know, of
15 that intercompany because we didn't do a
16 validity analysis whether they were not.
17 It was simply binary. We turn them on, we
18 turn them off and we show what that range
19 is.

20 Q. What was the amount?

21 MR. RENENGER: Object to the
22 form.

23 Q. You said you assumed that the
24 amounts were valid. What were the
25 amounts, the total amounts?

1 SNELLENBARGER

2 A. The recovery amounts or the
3 balances?

4 Q. The balances.

5 A. I don't have the numbers in
6 front of me. As I discussed before, I
7 know there were different intercompany
8 counts back and forth. Some were in the
9 billions some were in hundreds of
10 millions.

11 Q. It was north of 2 or 3 billion?

12 A. In aggregate, yes.

13 Q. The recovery model and the
14 waterfall model that was presented in the
15 presentation, Exhibit 19, does not include
16 recovery for intercompany balances,
17 correct?

18 A. No. Because the debtors at the
19 time of the settlement said they didn't
20 believe they would be allowed and,
21 therefore, we were limited to what we
22 could disclose to our client and what the
23 debtors would allow us to disclose. So we
24 couldn't show intercompany recovery
25 estimates to them because they weren't --

1 SNELLENBARGER

2 they didn't want us disclosing that
3 publicly.

4 Q. The debtors informed Houlihan
5 that the intercompany balances should not
6 be disclosed to their clients?

7 A. Not the balances but the --
8 well, balances and recovery estimates.
9 That information was not public at the
10 time of the PSA and they weren't going to
11 divulge it inside settlement negotiations.
12 They didn't want to divulge it or blow it
13 out once the confi period had ended.

14 Q. The ad hoc group had signed a
15 nondisclosure agreement, correct?

16 A. Correct.

17 Q. And that nondisclosure agreement
18 allowed the debtors to see provide the
19 noteholders to sign that NDA with
20 nonpublic information?

21 A. Yeah. Certain nonpublic
22 information that would ultimately be borne
23 out.

24 Q. And is it your testimony that
25 the nonpublic information regarding the

1 SNELLENBARGER

2 intercompany balances were only provided
3 to Houlihan and not provided to the funds?

4 A. That's correct.

5 Q. And the recoveries that included
6 claims for intercompany balances was also
7 not provided to the JSNs?

8 A. That's correct.

9 Q. So I'm not going to ask you to
10 divulge what's redacted in the
11 presentation that we looked at earlier but
12 it's your point of view that those
13 presentations do not include recoveries
14 for intercompany balances?

15 A. That's correct. We just simply
16 said in the presentation that if they were
17 valid, they would increase the secured
18 recovery.

19 Q. Without quantifying for the JSNs
20 the amount of the increase in recovery?

21 A. That's correct.

22 Q. Did you at any point raise with
23 your clients prior to the petition date
24 that that information should be provided
25 to the signatories to the NDA?

1 SNELLENBARGER

2 MR. RENENGER: I'm going to

3 object to the form of the question and

4 instruct the witness to the extent the

5 answer to that question would divulge

6 work product or attorney-client

7 privileged communications, I'll direct

8 you not to answer.

9 A. I can't answer at the direction
10 of counsel.

11 Q. If you turn back to the July 5th
12 letter.

13 A. Sure.

14 Q. First page of the letter has a
15 footnote 2, referring to the RMBS trust
16 and monoline claims and subordination.

17 A. Yes.

18 Q. Was this the first time that
19 Houlihan became aware that the RMBS and
20 monoline claims could be subject to
21 subordination in the plan?

22 MR. RENENGER: Object to the
23 form of the question.

24 Q. We asked a number of questions
25 prepetition about subordination. I think

1 SNELLENBARGER

2 most respects your counsel advised you not
3 to disclose confidential and privileged
4 information. I'm just asking generally.
5 When was the first time with respect to
6 this engagement that Houlihan became aware
7 that the RMBS and monoline claims could be
8 subordinated in the plan?

9 MR. RENENGER: I'm going to
10 object to the form of the question.

11 Q. At some point, either at the
12 date of this letter or at some point prior
13 to the date of the letter, you
14 Mr. Snellenbarger became aware that these
15 claims, the RMBS and monoline claims,
16 could be subordinated in the plan. They
17 were not subordinated but Mr. Brodsky is
18 saying they could be subordinated?

19 A. Correct.

20 Q. Is this the first time you
21 learned that fact or did you know it
22 before?

23 A. No.

24 Q. Did you know it before the
25 petition date?

1 SNELLENBARGER

2 A. I think as a general matter,
3 we -- I think we were aware that it was
4 possible.

5 Q. And you discussed it with your
6 clients prior to petition date?

7 MR. RENENGER: Objection.

8 Q. Yes or no answer. The issue of
9 subordination with respect to the RMBS and
10 monoline claims, did you discuss that
11 issue with your clients prepetition?

12 MR. RENENGER: Object. I think
13 it's been asked and answered earlier,
14 but go ahead.

15 A. I believe so.

16 MR. WALSH: If we take a break,
17 I can shorten what we have.

18 MR. RENENGER: Sure.

19 (Whereupon, there is a recess in
20 the proceedings.)

21 Q. Exhibit 26. Where it says, "We
22 look forward to meeting with you next
23 week," Mr. Brodsky is writing to among
24 others you. Did you, in fact, meet with
25 anyone from Aurelius at around that time?

1 SNELLENBARGER

2 A. Yes.

3 Q. In person?

4 A. Yes.

5 Q. What happened at that meeting?

6 A. We discussed the letters that
7 they had sent around publicly and also
8 discussed kind of generally on a public
9 basis the history of the case and the
10 discussions and the rationale for entering
11 into the PSA.

12 Q. Was there a discussion about
13 intercompany claims at that meeting?

14 A. I believe so.

15 Q. Where was the meeting?

16 A. I believe it was at White & Case
17 offices.

18 Q. And how long did the meeting
19 last?

20 A. About an hour or two.

21 Q. Were you there at the meeting?

22 A. I was.

23 Q. Who else was at the meeting?

24 A. Mr. Brodsky, Mr. Prieto, Jerry
25 Uzzi from White & Case, I believe Jeffrey

1 SNELLENBARGER

2 Lewis from Houlihan, Matt Niemann may have
3 been there. I don't remember if he was or
4 not.

5 Q. And what -- did the Aurelius
6 folks take a position on whether the
7 prepetition PSA should be supported or not
8 supported?

9 A. I'm sorry, can you repeat the
10 question?

11 Q. Did the Aurelius people at this
12 meeting take a position one way or the
13 other whether the prepetition PSA that was
14 in place should be supported or not
15 supported?

16 A. No, they didn't go that far in
17 the meeting.

18 Q. Were they asking questions to
19 you and the other attendees about why they
20 should support the prepetition PSA?

21 A. I think they wanted to
22 understand based on the items that they
23 had laid out in the -- excuse me -- the
24 significant value that they thought was
25 available to the JSNs, what was the

1 SNELLENBARGER

2 rationale for entering into the PSA.

3 Q. Was that information provided to
4 them at that meeting?

5 A. Yes.

6 Q. Were there any other meetings
7 with the Aurelius folks regarding any of
8 these issues after July 5th or after the
9 July meeting?

10 A. Yeah. I believe we met with
11 them.

12 Q. I'm fixing this pretermination.
13 So any meetings between July and September
14 regarding support for the PSA?

15 A. Well, I think we met with them
16 again, I don't know whether it was
17 regarding support for the PSA or not, but
18 I had subsequent discussions just
19 generally about the case and where things
20 were headed, et cetera.

21 Q. Do you recall how many times you
22 met with them?

23 A. Couple times, I believe.

24 Q. How many times in person?

25 A. I think twice I think.

1 SNELLENBARGER

2 Q. Here in New York?

3 A. Yes.

4 Q. Do you recall when?

5 A. Well, the first one was around
6 right after July 5th. The second one may
7 have been a couple weeks later. It could
8 have been in August, too, I don't know.

9 (AHG Exhibit 27, e-mail from Ben
10 Ilhardt at Houlihan to Arthur Kaz,
11 marked for identification, as of this
12 date.)

13 Q. Exhibit 27, Mr. Snellenbarger,
14 is an e-mail from Ben Ilhardt at Houlihan
15 to Arthur Kaz. Do you know who Arthur Kaz
16 is?

17 A. I do.

18 Q. Who is he?

19 A. He was a professional at
20 Pentwater Capital at the time.

21 Q. Was he the professional at
22 Pentwater that was supervising Pentwater's
23 investment in JSNs?

24 A. He was the day-to-day guy.

25 Q. Were there discussions with

1 SNELLENBARGER

2 Mr. Kaz about the value of the
3 intercompany claims at or around July 5th,
4 2012?

5 A. He had seen the letter that
6 Aurelius had sent around and, you know,
7 about the, you know Aurelius's kind of
8 assertion about the magnitude those
9 intercompany claims may yield in recovery.
10 And so he called and said where do or you
11 think -- how are you getting the rates
12 numbers. He said we don't know exactly
13 how they're quantifying them but I think
14 they are looking at the schedules. And he
15 said can you point me to where they are in
16 the schedule, et cetera. So we sent him
17 this summary of where they were in these
18 schedules.

19 Q. So the listing that's attached
20 reflects the docket entries for the
21 schedules?

22 A. I believe so, yes.

23 Q. That also includes the amounts
24 to the intercompany receivables, correct?

25 A. Correct.

1 SNELLENBARGER

2 Q. And this is information that the
3 debtors made public at the end of June?

4 A. Correct.

5 Q. Did you have subsequent
6 discussions with Pentwater about the
7 intercompany balances?

8 A. Yes.

9 Q. What were those discussions?

10 A. They were trying to develop
11 their own model to come up with a range of
12 recovery, ranges of what those
13 intercompanies may yield based on
14 assumptions. So they were trying to
15 figure that out on a public basis. So we
16 were doing our best on a public basis to
17 guide him on what assumptions he used on a
18 public basis to try to help him there.

19 Q. So by this time we had a
20 recovery model by Aurelius and we also had
21 Pentwater doing a recovery model of their
22 own?

23 A. Correct.

24 Q. Do you know if the amounts in
25 the Aurelius recovery analysis matched the

1 SNELLENBARGER

2 amounts in the Pentwater recovery
3 analysis?

4 A. I don't recall. I don't believe
5 they did. Again, a recovery model with a
6 case is complex. There's a variety of
7 different assumptions that can be used
8 that would impact what those ranges would
9 be.

10 Q. Did Aurelius and Pentwater have
11 different assumptions with respect to the
12 intercompany claims?

13 A. I just don't remember what the
14 different assumptions were.

15 Q. Well, you mentioned that
16 Aurelius's assumptions regarding the
17 intercompany claims were different than
18 Houlihan's assumptions, correct?

19 A. Right.

20 Q. Do you recall if Pentwater's
21 assumptions regarding the intercompany
22 claims were also different from
23 Houlihan's?

24 A. Yes. Only because both
25 Pentwater and Aurelius were, could only

1 SNELLENBARGER

2 use public information. We had the
3 benefit of some private information.

4 Q. Did you receive any analysis
5 from any other signatory to the PSA
6 regarding the intercompany claims,
7 Marathon, York?

8 A. No, not that I recall.

9 Q. Silver Point?

10 A. I don't think so.

11 Q. Prior to the petition date, were
12 you provided a recovery analysis by any of
13 the ad hoc group members?

14 A. Prior to the petition date?

15 Q. Correct.

16 A. No.

17 Q. Were you aware whether members
18 of the ad hoc group were doing their own
19 recovery analysis prior to the petition
20 date?

21 A. I don't remember. I mean, I
22 think based on the public information it
23 had been very difficult to try to do that,
24 to ascertain what that was or wasn't.

25 Q. Well, by the petition date,

1 SNELLENBARGER

2 though -- by the petition date those
3 members had signed an NDA and had received
4 some nonpublic information?

5 A. I'm sorry. I apologize.

6 Q. I'm trying to fix before the
7 petition date just so we have all the
8 questions squared. Prior to the petition
9 date, were you aware whether any members
10 of the ad hoc group were performing their
11 own recovery analysis with respect to the
12 JSNs?

13 A. I don't believe so because the
14 information they received on a
15 confidential basis was such a short time
16 period between that and when we did the
17 settlement. I don't think they had time
18 to do their own recovery analysis based on
19 that information. My guess.

20 Q. You don't know one way or the
21 other?

22 A. But I don't know.

23 Q. At some point Houlihan shared
24 its recovery analysis with the members of
25 the ad hoc group prior to the petition

1 SNELLENBARGER

2 date? We saw the redactions but I'm not
3 going to ask you what's in the recovery
4 analysis but there was a recovery analysis
5 by Houlihan that was provided to the ad
6 hoc group?

7 A. Yeah. Based on the information
8 provided in the petition.

9 (AHG Exhibit 28, e-mail from
10 Arthur Kaz, marked for identification,
11 as of this date.)

12 (AHG Exhibit 29, e-mail from Ben
13 Ilhardt, marked for identification, as
14 of this date.)

15 Q. 28, Mr. Snellenbarger, is an
16 e-mail from Arthur Kaz to you and others
17 at Houlihan from August 23rd. Do you
18 recall this e-mail?

19 A. I do.

20 Q. Mr. Kaz refers to an analysis
21 that's attached, appears to be his
22 waterfall, well, Pentwater's waterfall
23 analysis, correct?

24 A. Yes.

25 Q. And it's based on the publicly

1 SNELLENBARGER

2 available information on the schedules,
3 correct?

4 A. Yes.

5 Q. And it includes a recovery based
6 on recovery on intercompany balances,
7 correct?

8 A. Just give me a second. I just
9 want to reread the e-mail.

10 Can you repeat the question?

11 Q. While you are looking at it --

12 MR. WALSH: Aaron, would you
13 look at page printed from November
14 5th, 12:24. It's the first page of
15 the analysis. Can I ask you, the
16 intercompany receivables are blacked
17 out, is that a redaction or is that
18 a --

19 MR. RENENGER: No, that's not a
20 redaction.

21 A. I'm sorry, can you repeat the
22 question?

23 Q. So if you look at the attachment
24 that is Pentwater's analysis.

25 A. Hmm.

1 SNELLENBARGER

2 Q. You see under assets there's an
3 item for intercompany receivables?

4 A. Yes.

5 Q. MV. Do you know what MV refers
6 to?

7 A. I don't know actually. I don't
8 know.

9 Q. In the cover e-mail, Mr. Kaz is
10 asking -- asking the Houlihan folks to
11 forward any analytical work that Aurelius
12 has sent to date. Do you know what he's
13 referring to there?

14 A. I think he was trying to --
15 based on the letter, Aurelius provided a
16 range of recovery estimates. On the
17 second letter on the intercompanies and he
18 was trying to understand if they provided
19 any analytical support behind that to
20 understand how they got to that number, he
21 wanted to see that.

22 Q. Had they, had Aurelius provided
23 underlying support?

24 A. They did not provide that to us,
25 no.

1 SNELLENBARGER

2 Q. Do you know if Aurelius ever
3 provided that support to --

4 A. No. We had some discussions
5 with them about what their assumptions
6 were but they didn't provide the actual,
7 their recovery.

8 Q. Did Pentwater perform its own
9 analysis of the intercompany balances?

10 A. They tried to create their own
11 waterfall model to determine some, a range
12 of outcomes for the intercompanies.

13 Q. Did they provide that to
14 Houlihan?

15 A. Yes.

16 Q. Do you know when?

17 A. Well, it looks like from this
18 e-mail he sent it in August but he said he
19 had sent it a month before as well. So if
20 that's correct, then I assume the first
21 time he sent it was in July.

22 Q. If you turn to the last page of
23 the document.

24 A. Yes.

25 Q. Do you see at the top third

1 SNELLENBARGER

2 intercompany receivables, there are
3 certain values listed in the various, I'll
4 call them silos, for lack of a better
5 word?

6 A. Yes.

7 Q. Is it your understanding those
8 reflect the intercompany receivables at
9 each of those silos?

10 A. I'd have to go back and check
11 but I assume he was using the balances
12 that were provided in the schedules.

13 Q. And those were balances,
14 intercompany balances, between certain
15 ResCap entities and other ResCap entities?

16 A. I believe so, yes.

17 Q. Did you have any meetings with
18 Pentwater about this analysis?

19 A. Yes.

20 Q. And when did you meet with them?

21 A. Probably in late August.

22 Q. If you look at Exhibit 29?

23 A. Yes.

24 Q. Before we move to 29, can you
25 look back at 28?

1 SNELLENBARGER

2 A. Um-hmm.

3 Q. The first e-mail from Pentwater.
4 Mr. Barrett Eynon at Pentwater is asking
5 for a side-by-side analysis of how
6 Aurelius gets to the intercompany
7 recoveries versus how you guys, Houlihan,
8 get to the recoveries using different
9 methodologies and clearly only public
10 information. Do you know what he's
11 referring to there?

12 A. Yeah. I think he was trying to
13 say, if we developed our public model, if
14 we developed a public model, what would
15 our range of recoveries on the
16 intercompanies be versus what Aurelius
17 did. That's the question he asks.

18 Q. Did you have a model that was
19 based only on public information?

20 A. We did not at the time so we
21 created one.

22 Q. And in your meeting with
23 Pentwater, did you perform the
24 side-by-side analysis?

25 A. We never prepared the

1 SNELLENBARGER

2 side-by-side analysis because we didn't --
3 we didn't want to -- we were careful not
4 to relay any of our thoughts on what the
5 recovery estimates on the companies may or
6 may not be. So what we did, we developed
7 a base kind of public model that Pentwater
8 could insert their own assumptions and
9 play around with it to develop a range of
10 what the intercompanies may or may not be.

11 Q. I thought Pentwater had signed
12 an NDA?

13 A. They had. But by August that
14 NDA had expired. So they were on a public
15 only basis at that point.

16 Q. Was there any difference between
17 the Houlihan model based on public
18 information and the Aurelius model based
19 on public information, at least with
20 respect to intercompany receivables?

21 A. Again, we didn't run that for
22 Pentwater. We basically -- we didn't --
23 what we sent over to Pentwater was a
24 recovery model that had zero recovery for
25 the intercompanies. Not that we didn't

1 SNELLENBARGER

2 think they were worth anything but we
3 simply just said, look, put your own
4 assumptions in, play around with it. We
5 can see what outcomes result from that.
6 Basically they could have done it
7 themselves. We were trying to be helpful
8 and just did it for them basically as a
9 mathematical exercise for them.

10 Q. What type of assumptions could
11 change on the intercompany receivable
12 issue?

13 A. The size of the unsecured
14 claims, the value of the assets, where
15 those assets and claims reside, at what
16 entities, would impact the value or the
17 output recoveries of the intercompanies.

18 Q. Is it fair to say that
19 reasonable people could disagree on the
20 value of intercompany claims that were
21 publicly disclosed?

22 MR. RENENGER: Object to the
23 form of the question.

24 A. Based on public information,
25 there would be -- definitely a range of

1 SNELLENBARGER

2 outcomes could be concluded because it
3 wasn't enough public information to be
4 very specific and find out about some of
5 those assumptions.

6 Q. At some point, either in the
7 summer of 2012 or later, did Houlihan
8 perform an analysis of the intercompany
9 receivables based on nonpublic
10 information?

11 A. We never did a valuation. We,
12 as I said before, we continued to update
13 our recovery model based on refinements
14 and inputs provided to us by the debtors
15 and based on the different scenarios and
16 our range of scenarios we would -- at the
17 direction of counsel we would provide --
18 counsel would provide different scenarios
19 for us, we would run it through our model.
20 We would provide those outputs to them.

21 Q. Did the refinements include
22 refinements on the value of the
23 intercompany receivables?

24 MR. RENENGER: Object to the
25 form of the question. I'm going to

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SNELLENBARGER

instruct the witness to the extent
that the work in question was work
done at the direction of counsel, you
are not to provide any detail on that
work. But just whether or not the
work was done is okay.

A. Yes, the work was done.

Q. Let's look at Exhibit 29.

A. Okay.

Q. Mr. Ilhardt, is he attaching the
model that you referenced earlier that
does not assign a value to the
intercompany claims?

A. Yes.

Q. This is an illustrative model?

A. Correct.

Q. And it was provided in
electronic form such that Pentwater could
perform its own analysis?

A. Correct.

Q. Did Pentwater ever share with
you it's own analysis based on the
illustrative waterfall that you provided
to them?

1 SNELLENBARGER

2 A. I don't know if they sent their
3 estimates back. I think they played
4 around with it to come up with different
5 ranges. And we talked about what those
6 ranges may be, you know, generally.

7 (AHG Exhibit 30, e-mail between
8 Mr. Snellenbarger and Mr. Prieto dated
9 July 10th, 2012, marked for
10 identification, as of this date.)

11 Q. Exhibit 30 is an e-mail between
12 you and Mr. Prieto July 10th. Tail end of
13 a number of other e-mails. Mr. Prieto
14 seems to reply to all in the same e-mail.
15 Did you have a discussion -- if you look
16 at the bottom of the first page, you had
17 offered Mr. Prieto to meet or discuss, I
18 guess -- turn to page 2. The page ending
19 in 81. You see at the top Mr. Prieto
20 e-mails you, references an in-person
21 meeting you had and says, "We want to
22 better understand the tax issue and the
23 treatment of the monoline claims," and
24 asks if you can meet, well, chat. Did you
25 in fact talk to Mr. Prieto or around

1 SNELLENBARGER

2 July 10th?

3 A. I believe we did.

4 Q. And did you talk about the
5 monoline issue?

6 A. Yes.

7 Q. What was the discussion?

8 A. I mean, as I recall, it's been a
9 long time. I think just to understand
10 what the -- I think they were trying to
11 figure out where the monoline claims
12 should be asserted, what entities. And
13 based on public information. And we were
14 trying to help them through public
15 information and public information
16 available to the RMBS trusts at ResCap
17 where those securities were created, at
18 what entities to try to come to a
19 determination of what they were supposed
20 to put in their model with respect to
21 those claims.

22 MR. WALSH: This will be 31.

23 (AHG Exhibit 31, e-mail from

24 Mr. Snellenbarger to David Reid

25 forwarding an e-mail from Mr. Prieto,

1 SNELLENBARGER

2 marked for identification, as of this
3 date.)

4 Q. Exhibit 31 is an e-mail from
5 you, Mr. Snellenbarger, to David Reid
6 forwarding an e-mail from Mr. Prieto. Are
7 you sending that to yourself?

8 A. Yeah. That's my e-mail address.

9 Q. I figured that. But I want to
10 focus on the e-mail from Mr. Prieto. What
11 is Mr. Prieto forwarding to you?

12 A. I think he was trying to -- they
13 did an analysis of where these securities
14 were issued and what the loss estimates
15 were to try to determine where the
16 appropriate claims should be, what
17 entities the appropriate claim should be
18 assessed at.

19 Q. Where did he get the information
20 to perform this analysis, if you know?

21 A. There's a service called Intex
22 that has a lot of this securities RMBS,
23 CMBS type of information that's publicly
24 available.

25 Q. Was that available prepetition?

1 SNELLENBARGER

2 A. I believe so.

3 Q. Did Houlihan access Pretex --

4 A. Intex.

5 Q. Intex. Thank you. Prior to the
6 petition date?

7 A. I don't recall if we did or not.

8 Q. Did Houlihan or anyone for the
9 ad hoc group perform the analysis that
10 Mr. Prieto has included here or any form
11 of that analysis prior to the petition
12 date?

13 A. No, because the debtors had told
14 us what their assumptions were with
15 respect to those claims, what entities so
16 we utilized those assumptions.

17 Q. But the information was
18 available in Intex prepetition?

19 A. Yes. It's one way to look at
20 it. It's not the definitive guide of how
21 those claims should be assessed and what
22 entity. It's one way to look at it on a
23 public basis. The debtors made an
24 assumption based on their knowledge and
25 that's what was utilized in the recovery

1 SNELLENBARGER

2 models at the time on a private basis.

3 Q. Did the debtors provide the
4 information that is included in this
5 spreadsheet prior to the petition date?

6 A. No.

7 Q. Is this additional information
8 that you could have accessed prior to the
9 petition date to understand the RMBS
10 settlement?

11 A. Well, the RMBS settlement
12 happened before the date of the filing.
13 So I don't know if we could have had time
14 to do that.

15 Q. Let me ask a different question.
16 Did anyone at Intex -- sorry. Did anyone
17 at Houlihan access Intex prior to the
18 petition date to either confirm what the
19 debtors had provided on the RMBS claims or
20 to investigate what the debtors had
21 provided on the RMBS claims?

22 A. We had ancillary financial
23 institution group professionals that have
24 experience in RMBS and CMBS. I wasn't at
25 the time that familiar with the

1 SNELLENBARGER

2 securitizations. I think they had
3 generally looked at it but not on a deep
4 dive of it generally.

5 Q. Who are they?

6 A. I think her name was Kinga Elo.

7 Q. She was a Houlihan employee?

8 A. She was at the time.

9 Q. Anyone else at Houlihan that
10 look at the RMBS claims?

11 A. She was the person that did that
12 always.

13 Q. Did she prepare an analysis of
14 the RMBS claims prior to the petition
15 date?

16 A. No. I think she on a public
17 basis. Well, I would say when we were
18 putting together, we talked about our
19 estimates way back when and she was the
20 one that had looked at the research
21 reports and looked at the comparable
22 settlement deals. I think had looked at
23 Intex a little bit to kind of develop some
24 kind of best guess range on a public
25 basis.

1 SNELLENBARGER

2 Q. We had looked at a document that
3 provided a preliminary and HL estimate.

4 Was she involved in that?

5 A. Yes.

6 Q. If you look back at Exhibit 24,
7 you see Ms. Park refers to Intralinks at
8 the top?

9 A. Yes.

10 Q. Does this refresh your
11 recollection that Houlihan had access to
12 Intralinks during this time period?

13 A. Yes. And again, I think
14 Intralinks had different data rooms -- or,
15 excuse me, Intralinks ResCap had different
16 data rooms set up on Intralinks so I know
17 we had access to a data room on the
18 Intralinks site from ResCap.

19 Q. At least through July 3rd, 2012?

20 A. Yes.

21 Q. You don't know one way or the
22 other but you potentially could still have
23 access to Intralinks?

24 A. Right.

25 (AHG Exhibit 32, Notice, marked

1 SNELLENBARGER

2 for identification, as of this date.)

3 Q. Mr. Snellenbarger, you are a
4 30(b)(6) witness on the public disclosure
5 document that I have just handed you.
6 This is Exhibit 32. Are you familiar with
7 this document?

8 A. I am.

9 Q. You reviewed it in connection
10 with today's deposition?

11 A. Yes.

12 Q. Turn to the last page.

13 A. Okay.

14 Q. The title of the last page is
15 intercompany claims and estimated
16 recoveries. Is this a disclosure that the
17 ad hoc group was required to make in
18 connection with confidentiality agreements
19 previously signed?

20 A. Yes.

21 Q. And here the ad hoc group is
22 disclosing -- well, what are they
23 disclosing here?

24 A. They are disclosing a range of,
25 on a -- we are disclosing a recovery

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SNELLENBARGER

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estimate on the intercompany claims based

3

on certain assumptions outlined here.

4

Q. What were the assumptions?

5

A. The assumptions were that the

6

Ally contributes \$2.1 billion for the POR,

7

JSN collateral is assumed to include

8

1.69 billion of debtor stipulated secured

9

recovery, 180 million of cash collateral

10

projected to be used post April 30th that

11

had not been authorized. If you want me

12

to read this, I can.

13

Q. No, I don't need that. I'm more

14

interested in the numbers below the line.

15

A. Okay.

16

Q. You see that the value that the

17

ad hoc group has placed on the

18

intercompany claims recovery is

19

approximately 462 million?

20

A. Yes.

21

Q. What analysis, if any, did

22

Houlihan do with respect to that number?

23

A. This is a result of, again, our

24

recovery model that we had built basically

25

putting the assumptions that we summarized

1

SNELLENBARGER

2

and the bullets on the top half of the

3

page, putting into the recovery model and

4

the output of what that means for the

5

intercompany balances.

6

Q. How do you go about calculating

7

the percentage of recoveries for each of

8

these intercompany claims?

9

A. The percentage recovery is

10

simply the math of the output recovery

11

value divided by the net claim number.

12

Q. Okay. Let me ask it a different

13

way.

14

A. I apologize if I didn't

15

understand your question.

16

Q. Ask an obvious question, get an

17

obvious answer. How did you go about

18

calculating the value of each of the

19

intercompany claims?

20

A. Again, we had a recovery model.

21

We put the assumptions in that we describe

22

on the top half of the page. Those values

23

flow through the model and based on the

24

intercompany claim balances per entities,

25

they are shared with other unsecured

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SNELLENBARGER

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claims. And that results in what

3

recoveries those intercompany claims would

4

get through the estate.

5

Q. Let me take the first one. You

6

have an intercompany claim between

7

Residential Capital, LLC and GMAC

8

Residential Holding Company, LLC. And the

9

net claim is 3.3 billion. Do you see

10

that?

11

A. I do.

12

Q. And this document places a value

13

of zero on that. What analysis did the ad

14

hoc group perform to come to that value?

15

A. Again, it wasn't -- we didn't

16

determine whether the intercompanies were

17

valid or not. I think for the purpose of

18

this, we assumed they all were valid. I

19

think the result is I don't think there's

20

really any assets or value at GMAC

21

Residential Holding Company, LLC. So they

22

are the ones that are paying the claim.

23

There was no value there. There wouldn't

24

be any ability to pay on that claim.

25

That's why there would be zero ascribed to

1 SNELLENBARGER

2 that.

3 Q. If you look at the next item,
4 the receiving entity is Residential
5 Funding Company. And the paying entity is
6 Residential Capital, LLC. The net claim
7 is 1.9 billion. And the value ascribed
8 here is 350 million. How did the ad hoc
9 group come to that value of 350 million?

10 A. Again, this is like, it's a
11 mathematical output based on the
12 assumptions of what the value of the
13 assets at Residential Capital, LLC, the
14 secured collateral that goes to the
15 secured creditors. There's unencumbered
16 collateral or unencumbered value available
17 at that entity. The unsecured claims
18 share in that value. The intercompany
19 claim would share in that value and their
20 pro rata should be -- is shown here.

21 Q. And Houlihan performed that
22 analysis with respect to each of these
23 intercompany claims?

24 A. Yeah, pursuant to our recovery
25 model. Again, we weren't opining on the

1

SNELLENBARGER

2

validity of the claims. We were just

3

simply saying if they are valid, here's

4

what the output is.

5

Q. How much work went into the

6

preparation of these numbers, roughly in

7

hours or --

8

A. Well, I mean, this is a -- it's

9

really a result of our model that we had

10

built over time. We built it prepetition

11

and had refined it throughout the case.

12

So it's not too difficult to put the

13

numbers in and see what the output is.

14

Q. And you had confidence in the

354:14 FRE 611(a) (Vague
and ambiguous)

15

numbers that you provided for this

16

disclosure?

17

A. Yeah. I mean, they were based

18

on the assumptions -- we basically said we

19

had confidence in our model that the math

20

works. As we talked about before, we were

21

trying to test it with every client.

22

Yeah, I think we were getting the same

23

results. So we felt comfortable that our

24

model from a mathematical perspective

25

worked. And given the assumptions that we

1 SNELLENBARGER

2 described here, this is what the output
3 could be.

4 Q. And you were comfortable with
5 the value ascribed to each of these claims
6 as presented in this public disclosure?

7 A. Yeah. I was comfortable that
8 that would be the recovery on these
9 intercompany claims based on the
10 assumptions that are provided here. If
11 the assumptions changed, then the recovery
12 numbers would change.

13 Q. Okay. You can put that aside.

14 Mr. Snellenbarger, you've been
15 designated as the corporate representative
16 on the decision to object to the plan, the
17 ad hoc group decision to object to plan,
18 and I understand we've limited that to the
19 business reasons for objecting to the
20 plan. Do you have an understanding, as
21 the witness for this issue, of what the
22 plan provides with respect to JSN
23 recoveries?

24 A. Yes.

25 Q. What does it provide?

1 SNELLENBARGER

2 A. A payment in full on account of
3 our principal amount of our claim plus
4 accrued prepetition interest.

5 Q. And if there is a judicial
6 determination that the JSNs are
7 oversecured, what does the plan provide?

8 A. I believe then we would be
9 entitled to post petition interest.

10 Q. And if there is a judicial
11 determination that the JSNs are not
12 oversecured, do you have an understanding
13 that the recoveries of the JSNs would be
14 reduced?

15 MR. RENENGER: Object to the
16 form of the question.

17 Q. Let me ask a different way. Do
18 you have an understanding of what the
19 recoveries for the JSNs would be if
20 there's a judicial determination that the
21 JSNs are undersecured?

22 A. I believe it would be the
23 principal amount of our claim plus accrued
24 prepetition interest.

25 Q. Do you understand that the plan,

1 SNELLENBARGER

2 as presented, provides that if there is a
3 judicial determination, either with
4 respect to phase one or phase two, that
5 the JSNs were oversecured, the JSNs will
6 receive full recovery of both par
7 prepetition interest and post petition
8 interest?

9 A. I believe that's the case. We
10 wanted -- I think it wasn't clear in the
11 plan, in the actual document. I think
12 through court appearances we tried to
13 clarify that.

14 Q. And is it correct that the ad
15 hoc group is still objecting to the plan?

16 A. Yes.

17 Q. And what is the basis for the
18 objection?

19 MR. RENENGER: I'm going to
20 object to the form of the question and
21 just remind the witness that he's here
22 to testify about business reasons for
23 the objection and not necessarily the
24 legal grounds for the objection.

25 A. Right now the plan provides that

1 SNELLENBARGER

2 the intercompany claims are waived. We
3 believe that there is substantial value
4 available to us on account of those
5 intercompany claims. Until such time that
6 we -- in fact, would help prove that we're
7 oversecured and entitled to post petition
8 interest. So we think that the plan is
9 unfair with respect to the treatment of
10 those intercompany claims and our
11 collateral.

12 Secondly, we believe we are not
13 giving a distribution on account of the
14 Ally contribution and we are asked to
15 provide Ally a full release in exchange
16 for no distribution on account of the Ally
17 contribution. Those are the two primary
18 reasons.

19 MR. RENENGER: Object to the
20 form.

21 Q. Do you understand that each of
22 those issues will be subject to phase two
23 of this litigation?

24 A. I believe so, yes.

25 Q. And if there is a judicial

1 SNELLENBARGER

2 determination that there is a right to the
3 intercompany balances and a right to some
4 portion of the Ally contribution, the plan
5 provides that the JSNs will receive
6 recovery consistent with that finding?

7 A. I think as we -- as is described
8 in the plan objection, if we are found to
9 be oversecured entitled to full post
10 petition interest -- I believe it's
11 described in our plan objection, if we are
12 found about oversecured entitled to full
13 post petition interest, I think these
14 issues become moot.

15 Q. The plan provides that you will
16 receive a recovery based on the judicial
17 determinations, either in phase one or
18 phase two. So if there's a finding that
19 you are entitled to either a lien on the
20 intercompany balances or a lien on the
21 causes of actions, you will receive under
22 the plan what you are claiming is due.
23 I'm trying to understand why you are
24 objecting to a plan that provides exactly
25 what you are seeking?

1 SNELLENBARGER

2 MR. RENENGER: I'm going to
3 object on the basis that this has been
4 asked and answered.

5 A. Can you repeat the question?

6 Q. Can you explain to me why the ad
7 hoc group is objecting to a plan that
8 would provide them exactly what they are
9 asking for if there is a judicial finding
10 in their favor?

11 MR. RENENGER: I'm going to
12 object on the basis that it's been
13 asked and answered and I'm also going
14 to instruct the witness, remind the
15 witness that he's here to testify as
16 to business reasons for objection not
17 necessarily legal arguments about the
18 validity of -- the arguments made in
19 the objection in light of what could
20 or could not happen in phase one and
21 phase two.

22 A. I have answered why I believe we
23 objected to the plan. I think we believe
24 our, again, our intercompany claims are
25 being waived and we think there's value

1 SNELLENBARGER

2 and we are not getting consideration on
3 account of the Ally settlement.

4 MR. WALSH: Let me see if I have
5 any other questions and then I will
6 cede the floor to my colleague.

7 (Whereupon, there is a recess in
8 the proceedings.)

9 MR. WALSH: I pass the witness.
10 I just want to reserve the right to
11 reopen the deposition based on our
12 review of the documents produced last
13 night and our ongoing discussions with
14 counsel about additional documents we
15 are seeking. And the privilege log
16 issues that we discussed earlier.

17 MR. RENENGER: We are happy to
18 entertain all such discussions. Of
19 course, given the schedule remaining,
20 we think any further depositions would
21 be impracticable and also
22 inappropriate given how exhaustive
23 this one was.

24 EXAMINATION BY

25 MR. KOCHMAN:

1 SNELLENBARGER

2 Q. Good afternoon,

3 Mr. Snellenbarger, my name is David

4 Kochman, I represent Wells Fargo. I'd

5 like you to pull out what's been marked as

6 No. 8. It should be the 30(b)(6) notice.

7 A. I have it.

8 Q. I understand that there was some

9 agreement reached concerning the scope of

10 the topics identified in this. I'd like

11 to go through some of these topics and

12 I'll ask both counsel here to clarify to

13 the extent I misconstrue what the

14 understandings were.

15 Mr. Snellenbarger, you are here

16 to testify as a 30(b)(6) witness on behalf

17 of the ad hoc group of junior secured

18 noteholders; is that correct?

19 A. Yes.

20 Q. Looking at topic 19 in No. 8, is

21 it your understanding that you are here to

22 testify about any diminution in the value

23 of any noncash collateral during the

24 pendency of the Chapter 11 cases?

25 A. Yes.

JSN Objection to
Wells Fargo
Designation
362:2 – 391:18
FRE 601, 611 (Outside
the scope of 30(b)(6)
topics)

1

SNELLENBARGER

2

Q. And that your testimony will be

3

given with the understanding that I am not

4

seeking any expert testimony and I am

5

seeking testimony only as to the fact of

6

what, if any, analysis was done by the ad

7

hoc group with respect to such topic?

8

A. Correct.

9

MR. RENENGER: And just in terms

10

of that particular agreement this

11

morning when Mr. Walsh discussed the

12

agreement on topics 18 and 19, in

13

particular, I pointed out that we

14

would be objecting to the extent the

15

questions went beyond phase two

16

issues. There's phase one issues that

17

have a lot of do with that topic and

18

some phase two issues. And the phase

19

two issues are basically limited to

20

the intercompany claims with respect

21

to the value of adequate protection

22

liens.

23

MR. KOCHMAN: Certainly. And

24

would Mr. Snellenbarger's testimony

25

extend to phase two and plan

1

SNELLENBARGER

2

confirmation issues.

3

MR. RENENGER: Interesting

4

question. I have to look at the front

5

page of this agreement, part of the

6

depo notice.

7

MR. RENENGER: Look, I mean, the

8

scheduling order that's described in

9

this document I believe relates to

10

phase two discovery, not necessarily

11

plan confirmation discovery. I could

12

be wrong about that.

13

MR. KOCHMAN: I think it's both.

14

MR. RENENGER: But, I'll tell

15

you, we are not going to shut it down

16

to the extent it goes to plan

17

confirmation issues with respect to

18

any valuation, you know, sort of as

19

limited by the topics you read into

20

the record.

21

MR. KOCHMAN: That was precisely

22

the understanding I wanted to make

23

sure that we had, which is that

24

provided the questions concern phase

25

two and plan confirmation as they

1

SNELLENBARGER

2

relate to the topics identified and as

3

amended by your understanding with

4

Mr. Walsh, they are fair game.

5

MR. RENENGER: Yes.

6

Q. Mr. Snellenbarger, do you have

7

an understanding as to the definition of

8

collateral as used in topic 19?

9

A. I believe so.

10

Q. When I refer to collateral here

11

and in the discussions of No. 8, the

12

30(b)(6) notice, I am going to refer to

13

collateral as used in the definition here.

14

A. Okay.

15

Q. Is it the JSNs' view that there

16

has been diminution in the value of its

17

noncash collateral during the pendency of

18

the Chapter 11 cases?

19

A. I think that's a topic that's

20

been covered by the expert. That was

21

covered by Mr. Siegert in phase one.

22

Q. And I'm not asking about the

23

amount of any such diminution, simply

24

whether you have an understanding if there

25

has been any diminution. You can answer

1 SNELLENBARGER

2 it yes or no?

3 A. Yes.

4 Q. So there has been diminution?

5 A. Yes.

6 Q. Is it the JSNs' view that any
7 diminution in the value of the noncash
8 collateral is attributable to actions
9 taken or not taken by Wells Fargo?

10 MR. RENENGER: I'm going to
11 object to the form of the question
12 only to really remind -- it's a broad
13 question, and I just want to remind
14 the witness that he's not to testify
15 on expert topics but simply any
16 analysis undertaken, let's see, by the
17 ad hoc group that was nonexpert in
18 nature on that question.

19 A. Can you repeat the question?

20 Q. I'd be happy to because I'd like
21 to get a clean record on this. And just
22 to make certain that I'm crystal clear,
23 none of my questions ask you to disclose
24 any confidences or communications with
25 counsel. You should assume that every

1 SNELLENBARGER

2 single one of my questions, implicit
3 within the question is a direction that
4 you should not disclose anything to do
5 with counsel, any confidences. If you are
6 unable to answer a question on the basis
7 that it would reveal a confidence, please
8 so state. But otherwise, none of my
9 questions ask you to disclose those
10 confidences. Do you understand that?

11 A. I do.

12 Q. Is it the JSNs' view -- let's
13 take a step back. You've testified that
14 it is the JSNs' view that there has been
15 diminution in the value of its noncash
16 collateral; is that correct?

JSN Objection to Wells
Fargo Designation

367:15-16, FRE 611(a)
(Vague and ambiguous)

17 A. Correct.

18 Q. Is it the JSNs' view that Wells
19 Fargo's actions or omissions are in any
20 way attributable to the diminution in the
21 value of the JSNs' noncash collateral?

22 A. It's a privileged discussion. I
23 can't answer at the direction of counsel.

24 Q. Have you had any discussions,
25 apart from discussions with counsel, about

1

SNELLENBARGER

2

whether or not Wells Fargo's actions or

3

omissions have caused the diminution in

4

the value of the noncash collateral?

5

A. No.

6

Q. Have you had conversations with

7

counsel about whether -- without

8

disclosing the substance of those

9

conversations -- have you had

10

conversations with counsel about whether

11

Wells Fargo's acts or omissions have

12

caused a diminution in the value of

13

noncash collateral?

14

A. Yes.

15

MR. RENENGER: You mean during

16

the pendency of the Chapter 11 cases,

17

because that's the topic?

18

MR. KOCHMAN: Yes.

19

MR. RENENGER: Okay.

20

A. Yes.

21

Q. Let's turn to topic 36.

22

Noteholders expected recovery under the

23

plan. Have the JSNs -- in the event that

24

JSNs are held to be undersecured and not

25

entitled to post petition interest, have

JSN Objection to
Wells Fargo
Designation
368:23 - 369:4, FRE
611(a) (Vague and
ambiguous)

1

SNELLENBARGER

2

you had discussions apart from discussions

3

with counsel about whether or not there

4

are other sources of recovery?

5

MR. RENENGER: Object to the

6

form of the question.

7

A. Can you repeat the question?

8

MR. KOCHMAN: I'll have the

9

reporter read it back.

10

(Record read.)

11

MR. RENENGER: Same objection.

12

A. No.

13

Q. In the event the JSNs are held

14

to be undersecured and not entitled to

15

post petition interest, without disclosing

16

the substance of communications with

17

counsel, if any, have you had discussions

18

with counsel about other sources of

19

recovery?

20

A. Yes.

21

Q. Again, without disclosing the

22

substance of those communications, have

23

you had discussions about any recovery

24

from Wells Fargo in the event the JSNs are

25

held undersecured and do not receive post

JSN Objection to Wells
Fargo Designation
369:21 – 370:2, FRE 402
(Not relevant)

1

SNELLENBARGER

2

petition interest?

3

MR. RENENGER: I'm going to

4

object to the question and ask for a

5

proffer about how this relates to

6

recoveries under the plan.

7

MR. KOCHMAN: What's your

8

objection to the question?

9

MR. RENENGER: It's beyond the

10

scope of the 30(b)(6) topic.

11

MR. KOCHMAN: Of this specific

12

question here?

13

MR. RENENGER: Right. The topic

14

is the noteholders expect to recover

15

under the plan and you are talking

16

recoveries, as I understand it,

17

outside of the plan. But if I'm

18

misunderstanding that, I'm happy to

19

hear a proffer.

20

MR. KOCHMAN: We can certainly

21

go and capture it under a number of

22

other topics. I was just trying to

23

make it nice and neat, but that's

24

fine.

25

Q. Look at topic 45. "Copies of

1

SNELLENBARGER

2

all communications between Aurelius and

3

the ad hoc group, its members and/or its

4

advisors concerning the debtors prior to

5

Aurelius becoming a member of the ad hoc

6

group." Have any of the discussions

7

encompassed within topic 45 concerned

8

the -- let's withdraw that question.

9

Have there been discussions that

10

fall within the scope of topic 45

11

concerning a recovery from Wells Fargo

12

apart from discussions with counsel?

13

MR. RENENGER: David, I want to

14

point out that that topic was narrowed

15

by agreement of counsel, although not

16

reflected in this list to be

17

communications between Houlihan and

18

Aurelius or, let's see, or significant

19

meetings between the ad hoc group's

20

financial advisors and Aurelius.

21

MR. KOCHMAN: That's fine.

22

Q. Do you understand your counsel's

23

limitation as explained?

24

A. I do. Could you repeat the

25

question?

1

SNELLENBARGER

2

Q. I'd be happy to. Have there

3

been communications falling within the

4

scope of topic 45 concerning a recovery

5

from Wells Fargo in the event the JSNs are

6

held to be undersecured? And again, I'm

7

not asking about any communications that

8

would implicate a privileged conversation?

9

MR. RENENGER: And just to

10

clarify, that's prior to Aurelius

11

becoming a member of the ad hoc group,

12

which happened in November of 2005.

13

Q. Have there been any

14

communications or conversations again

15

falling within the scope of topic 45 as

16

clarified by your counsel concerning Wells

17

Fargo's breach of any duties or

18

obligations to the JSNs?

19

A. No.

20

MR. KOCHMAN: Mark this as 33.

21

(AHG Exhibit 33, objection of

22

Wells Fargo Bank to the plan that was

23

filed in this case at docket 5410,

24

marked for identification, as of this

25

date.)

1

SNELLENBARGER

2

Q. Mr. Snellenbarger, I'm showing

3

you the objection of Wells Fargo Bank to

4

the plan that was filed in this case at

5

docket 5410. Have you seen this document

6

before?

7

A. I'm aware of its filing. I

8

can't say I have reviewed it.

9

Q. Do you recall how you became

10

aware of it, apart from communications,

11

privileged communications with counsel?

12

A. I believe one of the people that

13

worked at Houlihan just advised us of the

14

various objections to the plan made by

15

numerous parties.

16

Q. Was this person an attorney at

17

Houlihan?

18

A. No.

19

Q. Who was the person that advised

20

you of Wells Fargo's filing of an

21

objection?

22

A. One of my guys. I don't know

23

which one it was. One of my guys did.

24

Again, they were just -- came in and said

25

that various people had filed objections

JSN Objection to
Wells Fargo
Designation 373:2 -
379:25, FRE 402
(Not relevant)

1

SNELLENBARGER

2

to the plan.)

3

Q. Was it in an e-mail

4

communication or a telephone call?

5

A. I think they just walked into my

6

office and told me.

7

Q. Did they describe any

8

substantive aspects of Wells Fargo's

9

Objection.

10

A. No.

11

Q. Have you had occasion to review

12

Wells Fargo's objection to the plan?

13

A. I have not.

14

Q. Do you have an understanding as

15

to any bases for Wells Fargo's objection

16

to the plan?

17

A. I'm going to object to the

18

question as beyond the scope of the

19

30(b)(6) topics and on that basis instruct

20

the witness not to answer, although I'm

21

happy to hear a proffer as to how it

22

relates to the topics.)

23

MR. KOCHMAN: I believe it

24

relates directly to the plan

25

confirmation.)

1

SNELLENBARGER

2

MR. RENENGER: There's no topic

3

on plan confirmation.

4

MR. KOCHMAN: Is it your

5

position that the scope of this

6

deposition is limited to the 30(b)(6)

7

topics only and not plan confirmation

8

generally?

9

MR. RENENGER: Limited to the

10

30(b)(6) topics included in the

11

deposition notice, correct.

12

Q. Mr. Snellenbarger, I'm going to

13

direct your attention to paragraphs 38

14

through 43 of Wells Fargo's plan. I'd

15

like you to review this. Let me know when

16

you've had an opportunity to do so.

17

A. (Witness reviews document.)

18

Okay.

19

Q. Do you have an understanding as

20

to -- withdrawn.

21

Do you understand that Wells

22

Fargo has a claim against the debtors for

23

its fees and expenses incurred in

24

connection with its actions as collateral

25

agent?

1

SNELLENBARGER

2

A. I'm going to object to the

3

question as beyond the scope of the

4

30(b)(6) and on that basis instruct the

5

witness not to answer.

6

MR. KOCHMAN: I would like an

7

explanation as -- well, take a step

8

back.

9

Q. Do you have an understanding as

10

to whether Wells Fargo is entitled to its

11

fees and expenses from the debtors'

12

estate?

13

MR. RENENGER: Same objections

14

and instruction.

15

MR. KOCHMAN: Let's go off the

16

record for a second here.

17

(Whereupon, there is an

18

off-the-record discussion.)

19

Q. Direct your attention to

20

paragraph 38 of Wells Fargo's objection,

21

which references the JSNs' answer and

22

affirmative defenses and first amendment

23

counterclaims. Did you have any role in

24

preparing that document?

25

A. No.

1

SNELLENBARGER

2

Q. Did you have occasion to review

3

that document prior to the time that it

4

was filed?

5

MR. RENENGER: I'm going to

6

object to the question as being beyond

7

the scope of the 30(b)(6) topics and

8

on that basis instruct the witness not

9

to answer.

10

Q. Direct your attention to

11

paragraph 41 of Wells Fargo's plan

12

objection. Which references a statement

13

by ad hoc group's counsel that if there's

14

evidence of a lien release gets released,

15

that's Wells's issue now. Do you see

16

that?

17

A. I do.

18

Q. Do you have an understanding as

19

to what counsel was referring to when he

20

stated that's Wells's issue now?

21

MR. RENENGER: I'm going to

22

object to the question as being beyond

23

the scope of the 30(b)(6) topics. I'm

24

also going to instruct the witness not

25

to answer on the basis that any

1

SNELLENBARGER

2

knowledge he would have about what

3

counsel meant by that would be

4

attorney-client privileged.

5

Q. Same question, specifically

6

carving out nonattorney-client privileged

7

communications.

8

MR. RENENGER: I'm going to

9

object to that question as being

10

beyond the scope of the 30(b)(6)

11

topics and on that basis instruct the

12

witness not to answer.

13

Q. Direct your attention to

14

paragraph 42 of Wells Fargo's plan

15

objection. Apart from any communications,

16

privileged communications with counsel,

17

have you had occasion -- withdrawn.

18

Apart from information learned

19

through privileged communications with

20

counsel, do you have an understanding as

21

to whether there have been any requests by

22

the collateral agent to the ad hoc group

23

inquiring about whether claims will be

24

asserted by the ad hoc group against Wells

25

Fargo?

1

SNELLENBARGER

2

MR. RENENGER: I'm going to

3

object to the question as being beyond

4

the scope of the 30(b)(6) topics and

5

on that basis instruct the witness not

6

to answer.

7

Q. Are you going to follow your

8

counsel's instruction?

9

A. Yes.

10

Q. Direct your attention to

11

paragraph 43 of Wells Fargo's objection.

12

Apart from communications with counsel,

13

have there been discussions among the ad

14

hoc group concerning any claims they

15

intend to bring against Wells Fargo in the

16

event it is judicially determined that the

17

JSNs were undersecured?

18

MR. RENENGER: I'm going to

19

object to the question on the basis

20

that it's beyond the scope of the

21

30(b)(6) topics and on that basis

22

instruct the witness not to answer.

23

Q. Are you going to follow your

24

counsel's instruction?

25

A. Yes.

1

SNELLENBARGER

2

MR. KOCHMAN: Let's take a break

3

for a second.

4

(Whereupon, there is a recess in

5

the proceedings.)

6

MR. KOCHMAN: If you pull out

7

No. 8, the deposition topics.

8

Q. Directing your attention to

9

paragraph 38, "The content of all

10

communications with, by or among present

11

and former noteholders concerning the plan

12

and the global settlement described in the

13

disclosure statement." Do you see that

14

paragraph?

15

A. Yes.

16

Q. And I understand that that

17

paragraph has been limited to your -- to

18

Houlihan's communications with the debtors

19

and any significant meetings between the

20

debtors or their representative and the ad

21

hoc group or its representatives. Do you

22

have an understanding that that topic has

23

been so limited?

24

A. Yes.

25

Q. Have any of the communications

1

SNELLENBARGER

2

falling within the scope of topic 38, as

3

clarified, concerned Wells Fargo?

4

MR. RENENGER: I'm going to put

5

before him the narrow topic so he can

6

see. This is to clarify.

7

A. Any communications would be

8

privileged.

9

Q. So there have been

10

communications; is that correct? That's

11

just a yes or no question.

12

A. Can you repeat the question

13

again?

14

Q. Have there been any

15

communications falling within the scope of

16

paragraph 38, as amended, concerning Wells

17

Fargo?

18

MR. RENENGER: Just to avoid

19

confusion, the answer that he gave

20

before I think might reflect

21

confusion, the limitation is Houlihan

22

discussions with the debtors or

23

discussions between the ad hoc

24

professionals and the debtors at

25

significant meetings.

1

SNELLENBARGER

2

Do you agree with that

3

limitation?

4

MR. KOCHMAN: I wasn't a party

5

to those communications. To me, it is

6

Houlihan's communications with, A,

7

debtors and any significant meeting

8

between the debtors, B, the debtors'

9

representatives and, C, the ad hoc

10

group or its representatives.

11

MR. RENENGER: Yeah, I can

12

clarify that it's two topics. It's

13

Houlihan and the debtors'

14

communications or meetings,

15

significant meetings where Houlihan --

16

well, Houlihan didn't have to be

17

present, or the ad hoc group had

18

meetings with the debtors in terms of

19

significant meetings.

20

MR. KOCHMAN: So this topic,

21

it's your contention, does not

22

encompass Houlihan's communications

23

with the ad hoc group and its

24

representatives not involving the

25

debtors?

1

SNELLENBARGER

2

MR. RENENGER: That's correct.

3

Mr. Walsh, is that your

4

understanding?

5

MR. WALSH: We reached that

6

agreement based on our understanding

7

that all those communications would be

8

privileged.

9

Q. So to clarify your answer, if

10

there were any such communications

11

concerning Wells Fargo not involving the

12

debtors, you could not testify about them

13

because they would implicate privileged

14

communications?

15

A. Yes.

16

Q. So without disclosing the

17

substance of any privileged communication,

18

I'm simply asking whether there were

19

conversations between and among Houlihan

20

and the ad hoc group concerning Wells

21

Fargo that fall within the scope of topic

22

38.

23

MR. RENENGER: I'm going to

24

object to the question as being beyond

25

the scope of topic 38 as narrowed by

1

SNELLENBARGER

2

agreements between debtors' counsel

3

and ad hoc group counsel and on that

4

basis instruct the witness not to

5

answer.

6

Q. Directing your attention to

7

paragraph 39, "The reasonable, sufficiency

8

or adequacy of the global settlement

9

described in the disclosure statement or

10

the Ally contribution."

11

Do you see that topic?

12

A. Yes, I do.

13

Q. I see that it's been clarified

14

and I don't believe the clarification is

15

going to implicate any of my questions but

16

I'll refer you to the clarification on the

17

e-mail.

18

Have there been any

19

communications between or among the ad hoc

20

group, excluding communications with

21

counsel that implicate privileged

22

considerations, concerning Wells Fargo?

23

A. No.

24

Q. Topic 40, "The scope of the

25

releases provided in connection with the

1

SNELLENBARGER

2 Ally contribution." Do you see that?

3 A. I do.

4 Q. Excluding communications with
5 counsel, have there been any
6 communications between or among the ad hoc
7 group falling within the scope of topic 40
8 concerning Wells Fargo?

9 A. Not to my knowledge.

10 Q. Is there anyone else that would
11 have knowledge concerning that?

12 A. Not that I'm aware of.

13 Q. Turning to topic 41, "The
14 noteholders expected recovery under the
15 plan and the global settlement described
16 in the disclosure statement." Do you see
17 that topic?

18 A. I do.

19 Q. Are you aware of any documents
20 communications, apart from privileged
21 materials, concerning Wells Fargo that
22 fall within the scope of topic 41?

23 A. Not to my knowledge.

24 Q. Topic 42, "The effect of the
25 Ally contribution on the noteholders

1

SNELLENBARGER

2 expected recovery." Do you see that
3 topic?

4 A. I do.

5 Q. Are you aware of any
6 communications or correspondence about the
7 actions or omissions of Wells Fargo that
8 had an effect on the Ally contribution
9 and/or the noteholders expected recovery?

10 MR. RENENGER: Object to the
11 form of the question. I don't
12 understand the question.

13 A. Can you repeat the question?

14 Q. Are you aware of any
15 communications between or among the ad hoc
16 group, excluding privileged
17 communications, concerning Wells Fargo
18 that fall within the scope of topic 42?

19 MR. RENENGER: Just to clarify,
20 Counsel, your -- 42 is limited by
21 agreement of counsel in advance of the
22 deposition. All these topics have
23 been limited by counsel but.

24 MR. KOCHMAN: I don't see a
25 limitation as to paragraph 42.

1

SNELLENBARGER

2

MR. RENENGER: Topics 36 and 41

3

through 44, you'll see it in the

4

middle of the list.

5

MR. KOCHMAN: The limitation you

6

are referring to is that

7

Mr. Snellenbarger will testify as to

8

whether or not the ad hoc group

9

conducted an analysis of its expected

10

recoveries under the plan.

11

Q. Do you understand that?

12

A. Yes.

13

Q. With such limitation, have there

14

been nonprivileged communications

15

concerning Wells Fargo that fall within

16

the scope of topic 42?

17

A. Not to my knowledge.

18

Q. Topic 43, "The impact of the

19

plan, the Ally contribution or the global

20

settlement described in the disclosure

21

statement on the expected recoveries for

22

general unsecured creditors."

23

Do you see that?

24

A. I do.

25

Q. Do you understand that it

1

SNELLENBARGER

2

contains the same limitation that applied

3

to topic 42?

4

A. I do.

5

Q. Are you aware of any

6

communications between or among the ad hoc

7

group concerning Wells Fargo that fall

8

within the scope of topic 43?

9

A. Not to my knowledge.

10

Q. Are you aware of anyone else

11

that would have greater knowledge

12

concerning any communications about Wells

13

Fargo falling within the scope of topic

14

43?

15

A. Not that I'm aware of.

16

Q. Topic 44. Are you aware of any

17

communications between or among the ad hoc

18

group falling within the scope of topic 44

19

as amended by agreement?

20

A. Not to my knowledge.

21

Q. Are you aware of any facts --

22

withdrawn.

23

Are you aware of any actions

24

taken by Wells Fargo that would impact the

25

plan, the Ally contribution or the global

1

SNELLENBARGER

2

settlement described in the disclosure

3

statement?

4

MR. RENENGER: Object to the

5

form of the question as being beyond

6

the scope of the 30(b)(6) topics and

7

on that basis instruct the witness not

8

to answer.

9

Q. Are you going to follow your

10

counsel's instructions?

11

A. I am.

12

Q. Are you aware of any actions

13

taken by Wells Fargo that have impacted

14

the plan -- withdraw that question. I'm

15

trying to be too cute.

16

MR. KOCHMAN: I'd just like to

17

put one thing on the record here. We

18

are going to reserve our right to

19

recall this witness to answer the

20

questions that he has been directed

21

not to answer on the basis that we

22

believe our plan objection and the

23

nature of our questions unquestionably

24

fall well within the scope of these

25

30(b)(6) topics and our follow-up

1

SNELLENBARGER

2

questions as well as fall within the

3

scope of those 30(b)(6) topics.

4

I understand that you disagree

5

but I wanted to put on the record that

6

we reserve our right to recall the

7

witness on that basis.

8

MR. RENENGER: And I will add to

9

the record, since we are making a

10

record here, that our view is that

11

these questions relate entirely, all

12

the questions we objected to, to

13

whether the ad hoc group intend to

14

pursue claims against Wells Fargo and

15

issues that have been addressed by the

16

court in prior orders. Those topics

17

unquestionably, to use your word, in

18

our view, do not fall within the

19

30(b)(6) topics. The Wells Fargo

20

chose not to serve its own document or

21

rather its own deposition notice,

22

setting forth clearly the Wells Fargo

23

topics and instead, from our

24

perspective, has tried to rather

25

ambush a witness who is in no way

1

SNELLENBARGER

2

prepared to answer any questions about

3

claims against Wells Fargo. It's not

4

a topic with which he's familiar. He

5

would not be the witness in any event

6

on those topics. Those topics are

7

purely legal, have to do with

8

discretion of counsel. And so we

9

understand keeping the record open but

10

we wanted to make our objection to any

11

further attempt to recall this witness

12

clear on the record as well.

13

MR. KOCHMAN: I have nothing

14

further.

15

MR. SILVERSCHOTZ: We take

16

exception to the term "ambush," that's

17

certainly not our intention. Other

18

than that...

19

MR. RENENGER: I do have a

20

couple questions for the witness on

21

the record.

22

EXAMINATION BY

23

MR. RENENGER:

24

Q. Mr. Snellenbarger, prior to the

25

petition date in these cases, did the

1

SNELLENBARGER

2

debtors or any of their representatives

3

inform you of their view as to whether or

4

not the intercompany claims were valid?

5

A. Yes.

6

Q. What did they tell you?

7

A. The morning of the first

8

settlement meeting, representatives of FTI

9

or Centerview pulled me aside and said

10

based on preliminary review by Morrison &

11

Foerster they believe that the

12

intercompanies would -- may not be valid.

13

Q. Did you have a discussion with

14

them about their view?

15

A. Briefly I asked how are they

16

coming to that conclusion. They said at

17

that time they didn't know really yet that

18

Morrison & Foerster performed -- that that

19

was their preliminary conclusion. I told

20

them, well, we can't clearly agree to that

21

nor agree to that and so as part of the

22

settlement discussions, we went forward

23

and pursuant to the settlement agreement

24

we reserved our rights with respect to

25

intercompany claims and validity.

1 SNELLENBARGER

2 Q. Did you tell the debtors whether
3 or not you believed there was value at all
4 in the intercompany claims?

5 A. Well, I --

6 MR. WALSH: Objection. You can
7 answer.

8 A. Well, I think frankly both sides
9 in the recovery model built in the
10 intercompany balances utilizing
11 assumptions that noted that if they were
12 valid, that there was significant value
13 attributable to it.

14 Q. When you testified a moment ago
15 that we reserved our rights with respect
16 to intercompany claim and validity, what
17 did you mean by that?

18 A. When we agreed to the PSA, we
19 didn't waive any rights with respect to
20 pursuing our arguments with respect to the
21 value of our collateral, including
22 intercompany claims. We agreed simply to
23 waive post petition interest to the end of
24 the year in exchange for getting a par
25 payout by the end of the year. So we were

1

SNELLENBARGER

2

doing that for certainty and speed. But

3

we didn't waive any rights with respect to

4

that. So we preserve those rights to

5

argue our collateral value in the future.

6

Q. Why was the ad hoc group willing

7

to continue the negotiations and, in fact,

8

reach an agreement, given that there was

9

the question mark hanging over the

10

collateral value, given what the debtors

11

had told you about their position on the

12

value of intercompany claims?

13

MR. WALSH: Objection.

14

A. There were significant -- I

15

think given the fact that there was

16

significant intercompany balances, I think

17

our position was we didn't have any

18

information to do the full diligence of

19

whether they were valid or not valid or

20

whether they were 20 percent or

21

80 percent. But just from a plausibility

22

perspective, it seems that there was

23

likely value there, period. But given

24

the -- and we preserved those rights with

25

respect to PSA. But again, given the

1

SNELLENBARGER

2

opportunity for speed and recovery with

3

respect to the plan and ultimate payout

4

before the end of the year, the ad hoc

5

group was willing to forego the post

6

petition interest for 6 or 7 months.

7

MR. RENENGER: I have no further

8

questions.

9

(AHG Exhibit 34, Plan Term

10

Sheet, marked for identification, as

11

of this date.)

12

EXAMINATION BY

13

MR. WALSH:

14

Q. Mr. Snellenbarger, did you

15

review the deposition testimony of Conor

16

Bastable in preparing for today's

17

deposition?

18

A. I did not.

19

Q. Are you generally familiar with

20

his testimony or are you familiar at all

21

with his testimony regarding intercompany

22

claims and whether the prepetition PSA

23

waived those claims?

24

A. I'm not.

25

Q. Did you review the term sheet

1

SNELLENBARGER

2

that I have handed you, Exhibit 34, which

3

is the term sheet that was attached to the

4

prepetition PSA in connection with your

5

preparation for the deposition?

6

A. Yes.

7

Q. You testified earlier that there

8

was a typo. Would you direct me to the

9

typo that you referred to that you said

10

that White & Case had identified and

11

followed up with Morrison & Foerster. If

12

it helps, look at page 12.

13

MR. RENENGER: I'm just going to

14

interpose an objection that it's

15

beyond the scope of the direct. But

16

I'm not going to cut you off. I'm

17

just going to state it now and we will

18

see where it goes.

19

A. Yes, I see that.

20

Q. Where is the typo?

21

A. I believe it's on page 12 class

22

RS-9 intercompany claims where it says

23

"Holders of intercompany claims shall

24

receive no recovery on account of

25

intercompany claims." I believe that the

1 SNELLENBARGER

2 language on page 10 on class GS-11 should
3 carry forward onto RS-9. I believe that
4 was the discussion, as I understand it.

5 Q. You believe that that typo was
6 corrected in a later filing in the
7 bankruptcy?

8 A. I don't know if it was
9 ultimately corrected in the bankruptcy
10 filing or not. I just know that the
11 conversation happened and that we needed
12 to -- that there was a discussion that
13 that needed to be cleaned up.

14 Q. You understand that the
15 prepetition PSA that the ad hoc group
16 signed included this language waiving
17 intercompany claims as they related to
18 RFC?

JSN Objection
397:14-398:7 FRE 611(c)
(Leading)

19 MR. RENENGER: Object to the
20 form of the question.

21 Q. That's what the document says,
22 right? There was a waiver of the
23 intercompany claims as they related to
24 RFC?

25 A. That's what the document says.

1

SNELLENBARGER

2

But as I testified, Counsel, based on the

3

amount of documents moved back and forth,

4

White & Case called Morrison & Foerster,

5

as I understand, after the fact and said,

6

look, there is a blow in the document, we

7

need to correct it.

8

Q. There's a blow?

9

A. Yes. An error, whatever you

10

want to describe it.

11

Q. And you understand that White &

12

Case in fact reviewed the term sheet

13

before the junior secured signed the PSA,

14

correct?

15

A. Correct.

16

Q. And your analysis that we saw in

17

Exhibit 19 did not include any

18

consideration for intercompany balances,

19

correct? We looked at that document

20

before, the three pager.

21

A. Correct.

22

MR. WALSH: That's all I have.

23

(Time noted: 4:00 p.m.)

24

25

1
2 STATE OF NEW YORK)
3) :ss
4 COUNTY OF NEW YORK)
5

6 I, REID SNELLENBARGER, the
7 witness herein, having read the foregoing
8 testimony of the pages of this deposition,
9 do hereby certify it to be a true and
10 correct transcript, subject to the
11 corrections, if any, shown on the attached
12 page.
13

14 _____
15 REID SNELLENBARGER
16
17
18

19 Sworn and subscribed to before me,
20 this _____ day of _____, 2013.
21 _____

22 Notary Public
23
24
25

C E R T I F I C A T I O N

STATE OF NEW YORK)

ss.:

COUNTY OF NEW YORK)

I, ERICA L. RUGGIERI, RPR and a
Notary Public within and for the State
of New York, do hereby certify:

That I reported the proceedings
in the within-entitled matter, and
that the within transcript is a true
record of such proceedings.

I further certify that I am not
related by blood or marriage, to any
of the parties in this matter and
that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 10th day of
August, 2013.

ERICA L. RUGGIERI, RPR

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INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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E R R A T A

I wish to make the following changes,
for the following reasons:

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